

West's Annotated California Codes

Family Code

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 2. Matters to Be Considered in Granting Custody

West's Ann.Cal.Fam.Code D. 8, Pt. 2, Ch. 2, Refs & Annos

Currentness

Editors' Notes

GENERAL NOTES

2004 Main Volume

<Chapter 2 was added by Stats.1993, c. 219 (A.B.1500), § 116.50.>

<Former Chapter 2, "Matters To Be Considered In Awarding Custody", enacted by Stats.1992, c. 162 (A.B.2650), § 10, to be operative Jan. 1, 1994, comprising §§ 3040 to 3044, failed to become operative because it was repealed by Stats.1993, c. 219 (A.B.1500), § 116.40.>

West's Ann. Cal. Fam. Code D. 8, Pt. 2, Ch. 2, Refs & Annos, CA FAM D. 8, Pt. 2, Ch. 2, Refs & Annos
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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 2. Matters to Be Considered in Granting Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3040

§ 3040. Order of preference

Effective: January 1, 2013

Currentness

(a) Custody should be granted in the following order of preference according to the best interest of the child as provided in [Sections 3011](#) and [3020](#):

(1) To both parents jointly pursuant to Chapter 4 (commencing with [Section 3080](#)) or to either parent. In making an order granting custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child frequent and continuing contact with the noncustodial parent, consistent with [Sections 3011](#) and [3020](#), and shall not prefer a parent as custodian because of that parent's sex. The court, in its discretion, may require the parents to submit to the court a plan for the implementation of the custody order.

(2) If to neither parent, to the person or persons in whose home the child has been living in a wholesome and stable environment.

(3) To any other person or persons deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.

(b) The immigration status of a parent, legal guardian, or relative shall not disqualify the parent, legal guardian, or relative from receiving custody under subdivision (a).

(c) This section establishes neither a preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\)](#), § 116.50. Amended by [Stats.1997, c. 849 \(A.B.200\)](#), § 4; [Stats.2012, c. 845 \(S.B.1064\)](#), § 1.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3040 continues former Civil Code Section 4600(b) and (d) without substantive change. The reference to “children” has been omitted as surplus. See [Section 10](#) (singular includes plural). See also [Sections 2253](#) (determination of custody in nullity proceeding), 3003 (“joint legal custody” defined), 3004 (“joint physical custody” defined), 3021 (application of part), 3131 (action by district attorney where child taken or detained in violation of custody order). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(857\)](#)

West's Ann. Cal. Fam. Code § 3040, CA FAM § 3040

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 2. Matters to Be Considered in Granting Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3041

§ 3041. Custody award to nonparent; findings of court; hearing

Effective: January 1, 2007

Currentness

(a) Before making an order granting custody to a person or persons other than a parent, over the objection of a parent, the court shall make a finding that granting custody to a parent would be detrimental to the child and that granting custody to the nonparent is required to serve the best interest of the child. Allegations that parental custody would be detrimental to the child, other than a statement of that ultimate fact, shall not appear in the pleadings. The court may, in its discretion, exclude the public from the hearing on this issue.

(b) Subject to subdivision (d), a finding that parental custody would be detrimental to the child shall be supported by clear and convincing evidence.

(c) As used in this section, “detiment to the child” includes the harm of removal from a stable placement of a child with a person who has assumed, on a day-to-day basis, the role of his or her parent, fulfilling both the child's physical needs and the child's psychological needs for care and affection, and who has assumed that role for a substantial period of time. A finding of detriment does not require any finding of unfitness of the parents.

(d) Notwithstanding subdivision (b), if the court finds by a preponderance of the evidence that the person to whom custody may be given is a person described in subdivision (c), this finding shall constitute a finding that the custody is in the best interest of the child and that parental custody would be detrimental to the child absent a showing by a preponderance of the evidence to the contrary.

(e) Notwithstanding subdivisions (a) to (d), inclusive, if the child is an Indian child, when an allegation is made that parental custody would be detrimental to the child, before making an order granting custody to a person or persons other than a parent, over the objection of a parent, the court shall apply the evidentiary standards described in subdivisions (d), (e), and (f) of Section 1912 of the Indian Child Welfare Act ([25 U.S.C. Sec. 1901 et seq.](#)) and [Sections 224.6 and 361.7 of the Welfare and Institutions Code](#) and the placement preferences and standards set out in [Section 361.31 of the Welfare and Institutions Code](#) and Section 1922 of the Indian Child Welfare Act ([25 U.S.C. Sec. 1901 et seq.](#)).

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.50.](#) Amended by [Stats.2002, c. 1118 \(A.B.1938\), § 3;](#) [Stats.2006, c. 838 \(S.B.678\), § 2.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3041 continues former Civil Code Section 4600(c) without substantive change. See also [Section 3011](#) (factors to be considered in determining best interest of child). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (70)

West's Ann. Cal. Fam. Code § 3041, CA FAM § 3041

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 2. Matters to Be Considered in Granting Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3041.5

§ 3041.5. Controlled substances or alcohol abuse testing of persons seeking custody or visitation; grounds for testing; confidentiality of results; penalties for unauthorized disclosure

Effective: January 1, 2013

Currentness

In any custody or visitation proceeding brought under this part, as described in [Section 3021](#), or any guardianship proceeding brought under the Probate Code, the court may order any person who is seeking custody of, or visitation with, a child who is the subject of the proceeding to undergo testing for the illegal use of controlled substances and the use of alcohol if there is a judicial determination based upon a preponderance of evidence that there is the habitual, frequent, or continual illegal use of controlled substances or the habitual or continual abuse of alcohol by the parent, legal custodian, person seeking guardianship, or person seeking visitation in a guardianship. This evidence may include, but may not be limited to, a conviction within the last five years for the illegal use or possession of a controlled substance. The court shall order the least intrusive method of testing for the illegal use of controlled substances or the habitual or continual abuse of alcohol by either or both parents, the legal custodian, person seeking guardianship, or person seeking visitation in a guardianship. If substance abuse testing is ordered by the court, the testing shall be performed in conformance with procedures and standards established by the United States Department of Health and Human Services for drug testing of federal employees. The parent, legal custodian, person seeking guardianship, or person seeking visitation in a guardianship who has undergone drug testing shall have the right to a hearing, if requested, to challenge a positive test result. A positive test result, even if challenged and upheld, shall not, by itself, constitute grounds for an adverse custody or guardianship decision. Determining the best interests of the child requires weighing all relevant factors. The court shall also consider any reports provided to the court pursuant to the Probate Code. The results of this testing shall be confidential, shall be maintained as a sealed record in the court file, and may not be released to any person except the court, the parties, their attorneys, the Judicial Council, until completion of its authorized study of the testing process, and any person to whom the court expressly grants access by written order made with prior notice to all parties. Any person who has access to the test results may not disseminate copies or disclose information about the test results to any person other than a person who is authorized to receive the test results pursuant to this section. Any breach of the confidentiality of the test results shall be punishable by civil sanctions not to exceed two thousand five hundred dollars (\$2,500). The results of the testing may not be used for any purpose, including any criminal, civil, or administrative proceeding, except to assist the court in determining, for purposes of the proceeding, the best interest of the child pursuant to [Section 3011](#) and the content of the order or judgment determining custody or visitation. The court may order either party, or both parties, to pay the costs of the drug or alcohol testing ordered pursuant to this section. As used in this section, "controlled substances" has the same meaning as defined in the California Uniform Controlled Substances Act (Division 10 (commencing with [Section 11000](#)) of the Health and Safety Code).

Credits

(Added by [Stats.2004, c. 19 \(A.B.1108\)](#), § 1, eff. Feb. 23, 2004. Amended by [Stats.2005, c. 302 \(A.B.541\)](#), § 1; [Stats.2007, c. 152 \(S.B.403\)](#), § 1; [Stats.2008, c. 57 \(S.B.1255\)](#), § 1; [Stats.2009, c. 140 \(A.B.1164\)](#), § 66; [Stats.2012, c. 258 \(A.B.2365\)](#), § 2.)

Notes of Decisions (2)

West's Ann. Cal. Fam. Code § 3041.5, CA FAM § 3041.5

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 2. Matters to Be Considered in Granting Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3042

§ 3042. Preference of child; custody or visitation; examination of child witnesses; addressing the court; means other than direct testimony; determination of wish to express preference; rule of court

Effective: January 1, 2011

Currentness

(a) If a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody or visitation, the court shall consider, and give due weight to, the wishes of the child in making an order granting or modifying custody or visitation.

(b) In addition to the requirements of subdivision (b) of Section 765 of the Evidence Code, the court shall control the examination of a child witness so as to protect the best interests of the child.

(c) If the child is 14 years of age or older and wishes to address the court regarding custody or visitation, the child shall be permitted to do so, unless the court determines that doing so is not in the child's best interests. In that case, the court shall state its reasons for that finding on the record.

(d) Nothing in this section shall be interpreted to prevent a child who is less than 14 years of age from addressing the court regarding custody or visitation, if the court determines that is appropriate pursuant to the child's best interests.

(e) If the court precludes the calling of any child as a witness, the court shall provide alternative means of obtaining input from the child and other information regarding the child's preferences.

(f) To assist the court in determining whether the child wishes to express his or her preference or to provide other input regarding custody or visitation to the court, a minor's counsel, an evaluator, an investigator, or a mediator who provides recommendations to the judge pursuant to Section 3183 shall indicate to the judge that the child wishes to address the court, or the judge may make that inquiry in the absence of that request. A party or a party's attorney may also indicate to the judge that the child wishes to address the court or judge.

(g) Nothing in this section shall be construed to require the child to express to the court his or her preference or to provide other input regarding custody or visitation.

(h) The Judicial Council shall, no later than January 1, 2012, promulgate a rule of court establishing procedures for the examination of a child witness, and include guidelines on methods other than direct testimony for obtaining information or other input from the child regarding custody or visitation.

(i) The changes made to subdivisions (a) to (g), inclusive, by the act ¹ adding this subdivision shall become operative on January 1, 2012.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\)](#), § 116.50. Amended by [Stats.1994, c. 596 \(S.B.1700\)](#), § 1; [Stats.1995, c. 91 \(S.B.975\)](#), § 38; [Stats.2010, c. 187 \(A.B.1050\)](#), § 1.)

Editors' Notes

OPERATIVE EFFECT

<For operative effect of the amendment by Stats.2010, c. 187 (A.B.1050), see the terms of this section.>

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3042 continues without substantive change the second sentence of the second paragraph of former Civil Code Section 4600(a). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (19)

Footnotes

1 [Stats.2010, c. 187](#) (A.B.1050).

West's Ann. Cal. Fam. Code § 3042, CA FAM § 3042

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 2. Matters to Be Considered in Granting Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3043

§ 3043. Nomination of guardian by parent

Currentness

In determining the person or persons to whom custody should be granted under [paragraph \(2\) or \(3\) of subdivision \(a\) of Section 3040](#), the court shall consider and give due weight to the nomination of a guardian of the person of the child by a parent under Article 1 (commencing with [Section 1500](#)) of Chapter 1 of Part 2 of Division 4 of the Probate Code.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.50.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3043 continues without substantive change the last sentence of the second paragraph of former Civil Code Section 4600(a). Section 3043 makes clear that a nomination under the Probate Code provisions is to be considered and given due weight, regardless of the nature of the custody proceeding. For background on former Civ. Code § 4600, see *Recommendation Relating to Guardianship-Conservatorship Law*, 14 Cal. L. Revision Comm'n Reports 501 (1978). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(2\)](#)

West's Ann. Cal. Fam. Code § 3043, CA FAM § 3043

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 2. Matters to Be Considered in Granting Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3044

§ 3044. Presumption against persons perpetrating domestic violence

Effective: January 1, 2004

Currentness

(a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence against the other party seeking custody of the child or against the child or the child's siblings within the previous five years, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to [Section 3011](#). This presumption may only be rebutted by a preponderance of the evidence.

(b) In determining whether the presumption set forth in subdivision (a) has been overcome, the court shall consider all of the following factors:

(1) Whether the perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in [subdivision \(b\) of Section 3020](#), or with the noncustodial parent, as set forth in [paragraph \(1\) of subdivision \(a\) of Section 3040](#), may not be used to rebut the presumption, in whole or in part.

(2) Whether the perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in [subdivision \(c\) of Section 1203.097 of the Penal Code](#).

(3) Whether the perpetrator has successfully completed a program of alcohol or drug abuse counseling if the court determines that counseling is appropriate.

(4) Whether the perpetrator has successfully completed a parenting class if the court determines the class to be appropriate.

(5) Whether the perpetrator is on probation or parole, and whether he or she has complied with the terms and conditions of probation or parole.

(6) Whether the perpetrator is restrained by a protective order or restraining order, and whether he or she has complied with its terms and conditions.

(7) Whether the perpetrator of domestic violence has committed any further acts of domestic violence.

(c) For purposes of this section, a person has “perpetrated domestic violence” when he or she is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in any behavior involving, but not limited to, threatening, striking, harassing, destroying personal property or disturbing the peace of another, for which a court may issue an ex parte order pursuant to [Section 6320](#) to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d)(1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of any crime against the other party that comes within the definition of domestic violence contained in [Section 6211](#) and of abuse contained in [Section 6203](#), including, but not limited to, a crime described in subdivision (e) of Section 243 of, or [Section 261, 262, 273.5, 422, or 646.9 of, the Penal Code](#).

(2) The requirement of a finding by the court shall also be satisfied if any court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) In any custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to any custody mediation in the case.

Credits

(Added by [Stats.1999, c. 445 \(A.B.840\), § 1.](#) Amended by [Stats.2003, c. 243 \(S.B.265\), § 1.](#))

Notes of Decisions (6)

West's Ann. Cal. Fam. Code § 3044, CA FAM § 3044

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 2. Matters to Be Considered in Granting Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3046

§ 3046. Party absence or relocation from residence; consideration; interference with contact; application

Effective: January 1, 2007

Currentness

(a) If a party is absent or relocates from the family residence, the court shall not consider the absence or relocation as a factor in determining custody or visitation in either of the following circumstances:

(1) The absence or relocation is of short duration and the court finds that, during the period of absence or relocation, the party has demonstrated an interest in maintaining custody or visitation, the party maintains, or makes reasonable efforts to maintain, regular contact with the child, and the party's behavior demonstrates no intent to abandon the child.

(2) The party is absent or relocates because of an act or acts of actual or threatened domestic or family violence by the other party.

(b) The court may consider attempts by one party to interfere with the other party's regular contact with the child in determining if the party has satisfied the requirements of subdivision (a).

(c) This section does not apply to either of the following:

(1) A party against whom a protective or restraining order has been issued excluding the party from the dwelling of the other party or the child, or otherwise enjoining the party from assault or harassment against the other party or the child, including, but not limited to, orders issued under Part 4 (commencing with [Section 6300](#)) of Division 10, orders preventing civil harassment or workplace violence issued pursuant to [Section 527.6](#) or [527.8 of the Code of Civil Procedure](#), and criminal protective orders issued pursuant to [Section 136.2 of the Penal Code](#).

(2) A party who abandons a child as provided in [Section 7822](#).

Credits

(Added by [Stats.1999, c. 980 \(A.B.1671\), § 7](#). Amended by [Stats.2006, c. 538 \(S.B.1852\), § 157.](#))

West's Ann. Cal. Fam. Code § 3046, CA FAM § 3046

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 2. Matters to Be Considered in Granting Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3047

§ 3047. Military duty, temporary duty, mobilization, or deployment as justification; modification of custody or visitation orders; ability to appear at hearing; relocation of nondeploying parent; deployment as basis for inconvenience; legislative intent

Effective: January 1, 2013

Currentness

(a) A party's absence, relocation, or failure to comply with custody and visitation orders shall not, by itself, be sufficient to justify a modification of a custody or visitation order if the reason for the absence, relocation, or failure to comply is the party's activation to military duty or temporary duty, mobilization in support of combat or other military operation, or military deployment out of state.

(b)(1) If a party with sole or joint physical custody or visitation receives temporary duty, deployment, or mobilization orders from the military that require the party to move a substantial distance from his or her residence or otherwise has a material effect on the ability of the party to exercise custody or visitation rights, any necessary modification of the existing custody order shall be deemed a temporary custody order made without prejudice, which shall be subject to review and reconsideration upon the return of the party from military deployment, mobilization, or temporary duty.

(2) If the temporary order is reviewed upon return of the party from military deployment, mobilization, or temporary duty, there shall be a presumption that the custody order shall revert to the order that was in place before the modification, unless the court determines that it is not in the best interest of the child. The court shall not, as part of its review of the temporary order upon the return of the deploying party, order a child custody evaluation under [Section 3111](#) of this code or [Section 730 of the Evidence Code](#), unless the party opposing reversion of the order makes a *prima facie* showing that reversion is not in the best interest of the child.

(3)(A) If the court makes a temporary custody order, it shall consider any appropriate orders to ensure that the relocating party can maintain frequent and continuing contact with the child by means that are reasonably available.

(B) Upon a motion by the relocating party, the court may grant reasonable visitation rights to a stepparent, grandparent, or other family member if the court does all of the following:

(i) Finds that there is a preexisting relationship between the family member and the child that has engendered a bond such that visitation is in the best interest of the child.

(ii) Finds that the visitation will facilitate the child's contact with the relocating party.

(iii) Balances the interest of the child in having visitation with the family member against the right of the parents to exercise parental authority.

(C) Nothing in this paragraph shall increase the authority of the persons described in subparagraph (B) to seek visitation orders independently.

(D) The granting of visitation rights to a nonparent pursuant to subparagraph (B) shall not impact the calculation of child support.

(c) If a party's deployment, mobilization, or temporary duty will have a material effect on his or her ability, or anticipated ability, to appear in person at a regularly scheduled hearing, the court shall do either of the following:

(1) Upon motion of the party, hold an expedited hearing to determine custody and visitation issues prior to the departure of the party.

(2) Upon motion of the party, allow the party to present testimony and evidence and participate in court-ordered child custody mediation by electronic means, including, but not limited to, telephone, video teleconferencing, or the Internet, to the extent that this technology is reasonably available to the court and protects the due process rights of all parties.

(d) A relocation by a nondeploying parent during a period of a deployed parent's absence while a temporary modification order for a parenting plan is in effect shall not, by itself, terminate the exclusive and continuing jurisdiction of the court for purposes of later determining custody or parenting time under this chapter.

(e) When a court of this state has issued a custody or visitation order, the absence of a child from this state during the deployment of a parent shall be considered a "temporary absence" for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act (Part 3 (commencing with [Section 3400](#))), and the court shall retain exclusive continuing jurisdiction under [Section 3422](#).

(f) The deployment of a parent shall not be used as a basis to assert inconvenience of the forum under Section 3247.¹

(g) For purposes of this section, the following terms have the following meanings:

(1) "Deployment" means the temporary transfer of a member of the Armed Forces in active-duty status in support of combat or some other military operation.

(2) "Mobilization" means the transfer of a member of the National Guard or Military Reserve to extended active-duty status, but does not include National Guard or Military Reserve annual training.

(3) "Temporary duty" means the transfer of a service member from one military base to a different location, usually another base, for a limited period of time to accomplish training or to assist in the performance of a noncombat mission.

(h) It is the intent of the Legislature that this section provide a fair, efficient, and expeditious process to resolve child custody and visitation issues when a party receives temporary duty, deployment, or mobilization orders from the military, as well as at the time that the party returns from service and files a motion to revert back to the custody order in place before the deployment. The Legislature intends that family courts shall, to the extent feasible within existing resources and court practices, prioritize the calendaring of these cases, avoid unnecessary delay or continuances, and ensure that parties who serve in the military are not penalized for their service by a delay in appropriate access to their children.

Credits

(Added by [Stats.2005, c. 154 \(S.B.1082\), § 1, eff. Aug. 30, 2005](#). Amended by [Stats.2010, c. 466 \(A.B.2416\), § 1](#); [Stats.2012, c. 116 \(A.B.1807\), § 1](#).)

Notes of Decisions (6)

Footnotes

¹ So in chaptered copy. Should be [Section 3427](#).

West's Ann. Cal. Fam. Code § 3047, CA FAM § 3047

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 2. Matters to Be Considered in Granting Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3048

§ 3048. Required contents for custody or visitation orders; risk of child abduction; risk factors and preventative measures; notation of preventative conditions on minute order of court proceedings; Child Abduction Unit; child custody order forms

Effective: July 14, 2003

Currentness

(a) Notwithstanding any other provision of law, in any proceeding to determine child custody or visitation with a child, every custody or visitation order shall contain all of the following:

(1) The basis for the court's exercise of jurisdiction.

(2) The manner in which notice and opportunity to be heard were given.

(3) A clear description of the custody and visitation rights of each party.

(4) A provision stating that a violation of the order may subject the party in violation to civil or criminal penalties, or both.

(5) Identification of the country of habitual residence of the child or children.

(b)(1) In cases in which the court becomes aware of facts which may indicate that there is a risk of abduction of a child, the court shall, either on its own motion or at the request of a party, determine whether measures are needed to prevent the abduction of the child by one parent. To make that determination, the court shall consider the risk of abduction of the child, obstacles to location, recovery, and return if the child is abducted, and potential harm to the child if he or she is abducted. To determine whether there is a risk of abduction, the court shall consider the following factors:

(A) Whether a party has previously taken, enticed away, kept, withheld, or concealed a child in violation of the right of custody or of visitation of a person.

(B) Whether a party has previously threatened to take, entice away, keep, withhold, or conceal a child in violation of the right of custody or of visitation of a person.

(C) Whether a party lacks strong ties to this state.

(D) Whether a party has strong familial, emotional, or cultural ties to another state or country, including foreign citizenship. This factor shall be considered only if evidence exists in support of another factor specified in this section.

(E) Whether a party has no financial reason to stay in this state, including whether the party is unemployed, is able to work anywhere, or is financially independent.

(F) Whether a party has engaged in planning activities that would facilitate the removal of a child from the state, including quitting a job, selling his or her primary residence, terminating a lease, closing a bank account, liquidating other assets, hiding or destroying documents, applying for a passport, applying to obtain a birth certificate or school or medical records, or purchasing airplane or other travel tickets, with consideration given to whether a party is carrying out a safety plan to flee from domestic violence.

(G) Whether a party has a history of a lack of parental cooperation or child abuse, or there is substantiated evidence that a party has perpetrated domestic violence.

(H) Whether a party has a criminal record.

(2) If the court makes a finding that there is a need for preventative measures after considering the factors listed in paragraph (1), the court shall consider taking one or more of the following measures to prevent the abduction of the child:

(A) Ordering supervised visitation.

(B) Requiring a parent to post a bond in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to offset the cost of recovery of the child in the event there is an abduction.

(C) Restricting the right of the custodial or noncustodial parent to remove the child from the county, the state, or the country.

(D) Restricting the right of the custodial parent to relocate with the child, unless the custodial parent provides advance notice to, and obtains the written agreement of, the noncustodial parent, or obtains the approval of the court, before relocating with the child.

(E) Requiring the surrender of passports and other travel documents.

(F) Prohibiting a parent from applying for a new or replacement passport for the child.

(G) Requiring a parent to notify a relevant foreign consulate or embassy of passport restrictions and to provide the court with proof of that notification.

(H) Requiring a party to register a California order in another state as a prerequisite to allowing a child to travel to that state for visits, or to obtain an order from another country containing terms identical to the custody and visitation order issued in the United States (recognizing that these orders may be modified or enforced pursuant to the laws of the other country), as a prerequisite to allowing a child to travel to that country for visits.

(I) Obtaining assurances that a party will return from foreign visits by requiring the traveling parent to provide the court or the other parent or guardian with any of the following:

(i) The travel itinerary of the child.

(ii) Copies of round trip airline tickets.

(iii) A list of addresses and telephone numbers where the child can be reached at all times.

(iv) An open airline ticket for the left-behind parent in case the child is not returned.

(J) Including provisions in the custody order to facilitate use of the Uniform Child Custody Jurisdiction and Enforcement Act (Part 3 (commencing with [Section 3400](#))) and the Hague Convention on the Civil Aspects of International Child Abduction (implemented pursuant to [42 U.S.C. Sec. 11601 et seq.](#)), such as identifying California as the home state of the child or otherwise defining the basis for the California court's exercise of jurisdiction under Part 3 (commencing with [Section 3400](#)), identifying the United States as the country of habitual residence of the child pursuant to the Hague Convention, defining custody rights pursuant to the Hague Convention, obtaining the express agreement of the parents that the United States is the country of habitual residence of the child, or that California or the United States is the most appropriate forum for addressing custody and visitation orders.

(K) Authorizing the assistance of law enforcement.

(3) If the court imposes any or all of the conditions listed in paragraph (2), those conditions shall be specifically noted on the minute order of the court proceedings.

(4) If the court determines there is a risk of abduction that is sufficient to warrant the application of one or more of the prevention measures authorized by this section, the court shall inform the parties of the telephone number and address of the Child Abduction Unit in the office of the district attorney in the county where the custody or visitation order is being entered.

(c) The Judicial Council shall make the changes to its child custody order forms that are necessary for the implementation of subdivision (b). This subdivision shall become operative on July 1, 2003.

(d) Nothing in this section affects the applicability of [Section 278.7 of the Penal Code](#).

Credits

(Added by [Stats.2002, c. 856 \(A.B.2441\), § 2.](#) Amended by [Stats.2003, c. 62 \(S.B.600\), § 86;](#) [Stats.2003, c. 52 \(A.B.1516\) § 1, eff. July 14, 2003.](#))

West's Ann. Cal. Fam. Code § 3048, CA FAM § 3048

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 2. Matters to Be Considered in Granting Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3049

§ 3049. Disabled parents; legislative intent

Effective: January 1, 2011

Currentness

It is the intent of the Legislature in enacting this section to codify the decision of the California Supreme Court in [In re Marriage of Carney \(1979\) 24 Cal.3d 725](#), with respect to custody and visitation determinations by the court involving a disabled parent.

Credits

(Added by [Stats.2010, c. 179 \(S.B.1188\), § 1.](#))

West's Ann. Cal. Fam. Code § 3049, CA FAM § 3049

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West's Annotated California Codes

Family Code

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 3. Temporary Custody Order During Pendency of Proceeding

West's Ann.Cal.Fam.Code D. 8, Pt. 2, Ch. 3, Refs & Annos

Currentness

West's Ann. Cal. Fam. Code D. 8, Pt. 2, Ch. 3, Refs & Annos, CA FAM D. 8, Pt. 2, Ch. 3, Refs & Annos

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 3. Temporary Custody Order During Pendency of Proceeding (Refs & Annos)

West's Ann.Cal.Fam.Code § 3060

§ 3060. Petition for temporary custody order

Currentness

A petition for a temporary custody order, containing the statement required by [Section 3409](#), may be included with the initial filing of the petition or action or may be filed at any time after the initial filing.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 116.60.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3060 continues former Civil Code Section 4600.1(a) without substantive change. The language making this section applicable to proceedings for dissolution, nullity, legal separation, and exclusive custody has been omitted as unnecessary. See [Section 3021](#) (application of part) & Comment. See also [Sections 3131](#) (action by district attorney where child taken or detained in violation of custody order), 3133 (temporary custody order at request of district attorney). As to the court's jurisdiction, see [Sections 3400-3425](#) (Uniform Child Custody Jurisdiction Act). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (3)

West's Ann. Cal. Fam. Code § 3060, CA FAM § 3060

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 3. Temporary Custody Order During Pendency of Proceeding (Refs & Annos)

West's Ann.Cal.Fam.Code § 3061

§ 3061. Agreement or understanding on custody; temporary custody order

Currentness

If the parties have agreed to or reached an understanding on the custody or temporary custody of their children, a copy of the agreement or an affidavit as to their understanding shall be attached to the petition or action. As promptly as possible after this filing, the court shall, except in exceptional circumstances, enter an order granting temporary custody in accordance with the agreement or understanding or in accordance with any stipulation of the parties.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 116.61.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3061 continues former Civil Code Section 4600.1(b) without substantive change. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3061, CA FAM § 3061

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 3. Temporary Custody Order During Pendency of Proceeding (Refs & Annos)

West's Ann.Cal.Fam.Code § 3062

§ 3062. Ex parte temporary custody orders; hearing; extension of order if responding party avoiding jurisdiction

Currentness

(a) In the absence of an agreement, understanding, or stipulation, the court may, if jurisdiction is appropriate, enter an ex parte temporary custody order, set a hearing date within 20 days, and issue an order to show cause on the responding party. If the responding party does not appear or respond within the time set, the temporary custody order may be extended as necessary, pending the termination of the proceedings.

(b) If, despite good faith efforts, service of the ex parte order and order to show cause has not been effected in a timely fashion and there is reason to believe, based on an affidavit, or other manner of proof made under penalty of perjury, by the petitioner, that the responding party has possession of the minor child and seeks to avoid the jurisdiction of the court or is concealing the whereabouts of the child, then the hearing date may be reset and the ex parte order extended up to an additional 90 days. After service has been effected, either party may request ex parte that the hearing date be advanced or the ex parte order be dissolved or modified.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3062 continues former Civil Code Section 4600.1(c)-(d) without substantive change. The reference to "children" has been omitted as surplus. See [Section 10](#) (singular includes plural). See also [Section 3130](#) (action by district attorney to locate missing party and child and to procure compliance with order to appear). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3062, CA FAM § 3062

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 3. Temporary Custody Order During Pendency of Proceeding (Refs & Annos)

West's Ann.Cal.Fam.Code § 3063

§ 3063. Order restraining removal of child from state

Currentness

In conjunction with any ex parte order seeking or modifying an order of custody, the court shall enter an order restraining the person receiving custody from removing the child from the state pending notice and a hearing on the order seeking or modifying custody.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3063 continues the first sentence of former Civil Code Section 4600.1(e) without change. See also [Section 3131](#) (action by district attorney where child taken or detained in violation of custody order). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3063, CA FAM § 3063

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[Division 8. Custody of Children \(Refs & Annos\)](#)

[Part 2. Right to Custody of Minor Child \(Refs & Annos\)](#)

[Chapter 3. Temporary Custody Order During Pendency of Proceeding \(Refs & Annos\)](#)

[West's Ann.Cal.Fam.Code § 3064](#)

[§ 3064. Restrictions on ex parte orders granting or modifying custody order](#)

[Effective: January 1, 2009](#)

[Currentness](#)

(a) The court shall refrain from making an order granting or modifying a custody order on an ex parte basis unless there has been a showing of immediate harm to the child or immediate risk that the child will be removed from the State of California.

(b) "Immediate harm to the child" includes, but is not limited to, the following:

(1) Having a parent who has committed acts of domestic violence, where the court determines that the acts of domestic violence are of recent origin or are a part of a demonstrated and continuing pattern of acts of domestic violence.

(2) Sexual abuse of the child, where the court determines that the acts of sexual abuse are of recent origin or are a part of a demonstrated and continuing pattern of acts of sexual abuse.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.2008, c. 54 (A.B.2960), § 1.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3064 continues the last two sentences of former Civil Code Section 4600.1(e) without substantive change. Unlike the former section, this section does not contain a reference to the section defining "domestic violence." This is not a substantive change. See [Sections 6201](#) (application of definitions), 6211 ("domestic violence" defined). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(1\)](#)

West's Ann. Cal. Fam. Code § 3064, CA FAM § 3064

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West's Annotated California Codes

Family Code

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 4. Joint Custody

West's Ann.Cal.Fam.Code D. 8, Pt. 2, Ch. 4, Refs & Annos

Currentness

West's Ann. Cal. Fam. Code D. 8, Pt. 2, Ch. 4, Refs & Annos, CA FAM D. 8, Pt. 2, Ch. 4, Refs & Annos

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 4. Joint Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3080

§ 3080. Presumption of joint custody

Currentness

There is a presumption, affecting the burden of proof, that joint custody is in the best interest of a minor child, subject to [Section 3011](#), where the parents have agreed to joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child.

Credits

([Stats.1992, c. 162 \(A.B.2650\), § 10](#), operative Jan. 1, 1994. Amended by [Stats.1993, c. 219 \(A.B.1500\), § 116.70.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3080 continues former Civil Code Section 4600.5(a) without substantive change. The former reference to a child "of the marriage" has been omitted as unnecessary. See [Section 3021](#) (application of part). The reference to "an award of" joint custody is omitted as surplus.

See also [Sections 3002](#) ("joint custody" defined), 3131 (action by district attorney where child taken or detained in violation of custody order). [[23 Cal.L.Rev.Comm. Reports 1 \(1993\)](#)].

Notes of Decisions (1)

West's Ann. Cal. Fam. Code § 3080, CA FAM § 3080

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 4. Joint Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3081

§ 3081. Application by parents; custody investigation

Currentness

On application of either parent, joint custody may be ordered in the discretion of the court in cases other than those described in [Section 3080](#), subject to [Section 3011](#). For the purpose of assisting the court in making a determination whether joint custody is appropriate under this section, the court may direct that an investigation be conducted pursuant to Chapter 6 (commencing with [Section 3110](#)).

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 116.71.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3081 continues former Civil Code Section 4600.5(b) without substantive change. The reference to “an award” of joint custody is omitted as surplus. See [Section 3002](#) (“joint custody” defined); see also [Section 3131](#) (action by district attorney where child taken or detained in violation of custody order); [Code Civ. Proc. § 917.7](#) (order not automatically stayed by appeal). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3081, CA FAM § 3081

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 4. Joint Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3082

§ 3082. Statement of reasons for grant or denial

Currentness

When a request for joint custody is granted or denied, the court, upon the request of any party, shall state in its decision the reasons for granting or denying the request. A statement that joint physical custody is, or is not, in the best interest of the child is not sufficient to satisfy the requirements of this section.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3082 continues former Civil Code Section 4600.5(c) without substantive change. See also [Sections 3002](#) ("joint custody" defined), 3004 ("joint physical custody" defined), 3011 (factors to be considered in determining best interest of child). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(2\)](#)

West's Ann. Cal. Fam. Code § 3082, CA FAM § 3082

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 4. Joint Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3083

§ 3083. Contents and construction of joint legal custody order

Currentness

In making an order of joint legal custody, the court shall specify the circumstances under which the consent of both parents is required to be obtained in order to exercise legal control of the child and the consequences of the failure to obtain mutual consent. In all other circumstances, either parent acting alone may exercise legal control of the child. An order of joint legal custody shall not be construed to permit an action that is inconsistent with the physical custody order unless the action is expressly authorized by the court.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3083 continues former Civil Code Section 4600.5(e) without change. See also [Section 3003](#) ("joint legal custody" defined); [Code Civ. Proc. § 917.7](#) (order not automatically stayed by appeal). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3083, CA FAM § 3083

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 4. Joint Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3084

§ 3084. Rights of parents to physical control of child

Currentness

In making an order of joint physical custody, the court shall specify the rights of each parent to physical control of the child in sufficient detail to enable a parent deprived of that control to implement laws for relief of child snatching and kidnapping.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3084 continues former Civil Code Section 4600.5(f) without change. See also [Section 3004](#) ("joint physical custody" defined). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3084, CA FAM § 3084

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 4. Joint Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3085

§ 3085. Grant of joint legal custody without joint physical custody

Currentness

In making an order for custody with respect to both parents, the court may grant joint legal custody without granting joint physical custody.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 116.72.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3085 continues former Civil Code Section 4600.5(g) without substantive change. See also [Sections 3003](#) (“joint legal custody” defined), 3004 (“joint physical custody” defined). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3085, CA FAM § 3085

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 4. Joint Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3086

§ 3086. Orders of joint physical custody or joint legal custody;
designation of primary caretaker and primary home of child

Currentness

In making an order of joint physical custody or joint legal custody, the court may specify one parent as the primary caretaker of the child and one home as the primary home of the child, for the purposes of determining eligibility for public assistance.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3086 continues former Civil Code Section 4600.5(h) without change. See also [Sections 3003](#) ("joint legal custody" defined), 3004 ("joint physical custody" defined), 3028 (compensation for failure to assume caretaker responsibility). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3086, CA FAM § 3086

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 4. Joint Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3087

§ 3087. Modification or termination of joint custody order; statement of reasons

Currentness

An order for joint custody may be modified or terminated upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires modification or termination of the order. If either parent opposes the modification or termination order, the court shall state in its decision the reasons for modification or termination of the joint custody order.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3087 continues former Civil Code Section 4600.5(i) without substantive change. See also [Sections 3002](#) ("joint custody" defined), 3011 (factors to be considered in determining best interest of child); [Code Civ. Proc. § 917.7](#) (order not automatically stayed by appeal). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(23\)](#)

West's Ann. Cal. Fam. Code § 3087, CA FAM § 3087

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 4. Joint Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3088

§ 3088. Modification of custody order to joint custody order

Currentness

An order for the custody of a minor child entered by a court in this state or any other state may, subject to the jurisdictional requirements in [Sections 3403](#) and [3414](#), be modified at any time to an order for joint custody in accordance with this chapter.

Credits

([Stats.1992, c. 162 \(A.B.2650\), § 10](#), operative Jan. 1, 1994. Amended by [Stats.1993, c. 219 \(A.B.1500\), § 116.73](#).)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3088 continues former Civil Code Section 4600.5(j) without substantive change. The former reference to a child "of the marriage" has been omitted as unnecessary. See [Section 3021](#) (application of part). See also [Section 3002](#) ("joint custody" defined). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (2)

West's Ann. Cal. Fam. Code § 3088, CA FAM § 3088

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 4. Joint Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3089

§ 3089. Conciliation court; consultation by court or parties

Currentness

In counties having a conciliation court, the court or the parties may, at any time, pursuant to local rules of court, consult with the conciliation court for the purpose of assisting the parties to formulate a plan for implementation of the custody order or to resolve a controversy which has arisen in the implementation of a plan for custody.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3089 continues former Civil Code Section 4600.5(k) without change. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3089, CA FAM § 3089

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West's Annotated California Codes

Family Code

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 5. Visitation Rights

West's Ann.Cal.Fam.Code D. 8, Pt. 2, Ch. 5, Refs & Annos

Currentness

West's Ann. Cal. Fam. Code D. 8, Pt. 2, Ch. 5, Refs & Annos, CA FAM D. 8, Pt. 2, Ch. 5, Refs & Annos

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 5. Visitation Rights (Refs & Annos)

West's Ann.Cal.Fam.Code § 3100

§ 3100. Joint custody orders; visitation rights; domestic violence prevention orders; transfer of children; detail specific orders; confidentiality of shelter locations

Effective: January 1, 2006

Currentness

(a) In making an order pursuant to Chapter 4 (commencing with [Section 3080](#)), the court shall grant reasonable visitation rights to a parent unless it is shown that the visitation would be detrimental to the best interest of the child. In the discretion of the court, reasonable visitation rights may be granted to any other person having an interest in the welfare of the child.

(b) If a protective order, as defined in [Section 6218](#), has been directed to a parent, the court shall consider whether the best interest of the child requires that any visitation by that parent shall be limited to situations in which a third person, specified by the court, is present, or whether visitation shall be suspended or denied. The court shall include in its deliberations a consideration of the nature of the acts from which the parent was enjoined and the period of time that has elapsed since that order. A parent may submit to the court the name of a person that the parent deems suitable to be present during visitation.

(c) If visitation is ordered in a case in which domestic violence is alleged and an emergency protective order, protective order, or other restraining order has been issued, the visitation order shall specify the time, day, place, and manner of transfer of the child, so as to limit the child's exposure to potential domestic conflict or violence and to ensure the safety of all family members. If a criminal protective order has been issued pursuant to [Section 136.2 of the Penal Code](#), the visitation order shall make reference to, and acknowledge the precedence of enforcement of, any appropriate criminal protective order.

(d) If the court finds a party is staying in a place designated as a shelter for victims of domestic violence or other confidential location, the court's order for time, day, place, and manner of transfer of the child for visitation shall be designed to prevent disclosure of the location of the shelter or other confidential location.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 116.74; Stats.1994, c. 320 (A.B.356), § 2; Stats.2005, c. 465 (A.B.118), § 1.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Subdivision (a) of Section 3100 continues former Civil Code Section 4601 without substantive change.

Subdivision (b) continues former Civil Code Section 4601.5 without substantive change. The introductory clause has been omitted as surplus. The term “protective order” has been substituted for the references to orders under specific sections formerly in the Civil Code and the Code of Civil Procedure. This is not a substantive change, since [Section 6218](#) defines “protective order” to include these orders.

See also [Sections 3011](#) (factors to be considered in determining best interest of child), 3030 (parent convicted under certain Penal Code provisions not allowed unsupervised visitation with child), 3131 (action by district attorney where child taken or detained in violation of visitation order); [Code Civ. Proc. § 917.7](#) (order not automatically stayed by appeal). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(111\)](#)

West's Ann. Cal. Fam. Code § 3100, CA FAM § 3100

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Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 5. Visitation Rights (Refs & Annos)

West's Ann.Cal.Fam.Code § 3101

§ 3101. Stepparent's visitation rights

Currentness

(a) Notwithstanding any other provision of law, the court may grant reasonable visitation to a stepparent, if visitation by the stepparent is determined to be in the best interest of the minor child.

(b) If a protective order, as defined in [Section 6218](#), has been directed to a stepparent to whom visitation may be granted pursuant to this section, the court shall consider whether the best interest of the child requires that any visitation by the stepparent be denied.

(c) Visitation rights may not be ordered under this section that would conflict with a right of custody or visitation of a birth parent who is not a party to the proceeding.

(d) As used in this section:

(1) "Birth parent" means "birth parent" as defined in [Section 8512](#).

(2) "Stepparent" means a person who is a party to the marriage that is the subject of the proceeding, with respect to a minor child of the other party to the marriage.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.76.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Subdivision (a) of Section 3101 restates former Civil Code Section 4351.5(a) without substantive change. The section is revised to use the term "stepparent." This is not a substantive change, since subdivision (d)(1), defining "stepparent," is drawn from the language of former Civil Code Section 4351.5(a). References to the "superior" court have been omitted as surplus. See [Section 200](#) (jurisdiction in superior court). The language making this section applicable to proceedings for dissolution, nullity, or legal separation has been omitted as unnecessary. See [Section 3021](#) (application of part) & Comment.

Subdivision (b) continues former Civil Code Section 4351.5(l) without substantive change insofar as it applied to stepparents. The term “protective order” has been substituted for the references to orders under specific sections formerly in the Civil Code and the Code of Civil Procedure. This is not a substantive change, since [Section 6218](#) defines “protective order” to include these orders.

Subdivision (c) continues former Civil Code Section 4351.5(j) without substantive change insofar as it applied to stepparents. The reference to “birth parent” has been substituted for the former reference to “a natural or adoptive parent.” This is not a substantive change, since under subdivision (d)(1), “birth parent” include a biological and adoptive parent. This amendment is intended to improve clarity by using a defined term.

Subdivision (d) is new. Paragraph (1) is drawn from former Civil Code Section 4351.5(a).

See also [Sections 3011](#) (factors to be considered in determining best interest of child), 3131 (action by district attorney where child taken or detained in violation of custody order), 3133 (temporary custody order at request of district attorney); [Code Civ. Proc. § 917.7](#) (order not automatically stayed by appeal). As to the court's jurisdiction, see [Sections 3400-3425](#) (Uniform Child Custody Jurisdiction Act). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(11\)](#)

West's Ann. Cal. Fam. Code § 3101, CA FAM § 3101

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 5. Visitation Rights (Refs & Annos)

West's Ann.Cal.Fam.Code § 3102

§ 3102. Deceased parent; visitation rights of close relatives; adoption of child

Currentness

(a) If either parent of an unemancipated minor child is deceased, the children, siblings, parents, and grandparents of the deceased parent may be granted reasonable visitation with the child during the child's minority upon a finding that the visitation would be in the best interest of the minor child.

(b) In granting visitation pursuant to this section to a person other than a grandparent of the child, the court shall consider the amount of personal contact between the person and the child before the application for the visitation order.

(c) This section does not apply if the child has been adopted by a person other than a stepparent or grandparent of the child. Any visitation rights granted pursuant to this section before the adoption of the child automatically terminate if the child is adopted by a person other than a stepparent or grandparent of the child.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 116.77; Stats.1994, c. 164 (A.B.3042), § 1.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3102 continues former Civil Code Section 197.5 without substantive change. The reference to the "superior" court has been omitted as surplus. See [Section 200](#) (jurisdiction in superior court). In subdivision (a), the word "unemancipated" has been substituted for "unmarried." This is not a substantive change. See [Section 7002](#) (conditions of emancipation). See also [Section 3011](#) (factors to be considered in determining best interest of child); [Code Civ. Proc. § 917.7](#) (order not automatically stayed by appeal). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(39\)](#)

West's Ann. Cal. Fam. Code § 3102, CA FAM § 3102

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 5. Visitation Rights (Refs & Annos)

West's Ann.Cal.Fam.Code § 3103

§ 3103. Grandparent's rights; custody proceeding

Currentness

(a) Notwithstanding any other provision of law, in a proceeding described in [Section 3021](#), the court may grant reasonable visitation to a grandparent of a minor child of a party to the proceeding if the court determines that visitation by the grandparent is in the best interest of the child.

(b) If a protective order as defined in [Section 6218](#) has been directed to the grandparent during the pendency of the proceeding, the court shall consider whether the best interest of the child requires that visitation by the grandparent be denied.

(c) The petitioner shall give notice of the petition to each of the parents of the child, any stepparent, and any person who has physical custody of the child, by certified mail, return receipt requested, postage prepaid, to the person's last known address, or to the attorneys of record of the parties to the proceeding.

(d) There is a rebuttable presumption affecting the burden of proof that the visitation of a grandparent is not in the best interest of a minor child if the child's parents agree that the grandparent should not be granted visitation rights.

(e) Visitation rights may not be ordered under this section if that would conflict with a right of custody or visitation of a birth parent who is not a party to the proceeding.

(f) Visitation ordered pursuant to this section shall not create a basis for or against a change of residence of the child, but shall be one of the factors for the court to consider in ordering a change of residence.

(g) When a court orders grandparental visitation pursuant to this section, the court in its discretion may, based upon the relevant circumstances of the case:

(1) Allocate the percentage of grandparental visitation between the parents for purposes of the calculation of child support pursuant to the statewide uniform guideline (Article 2 (commencing with [Section 4050](#)) of Chapter 2 of Part 2 of Division 9).

(2) Notwithstanding [Sections 3930](#) and [3951](#), order a parent or grandparent to pay to the other, an amount for the support of the child or grandchild. For purposes of this paragraph, "support" means costs related to visitation such as any of the following:

(A) Transportation.

(B) Provision of basic expenses for the child or grandchild, such as medical expenses, day care costs, and other necessities.

(h) As used in this section, "birth parent" means "birth parent" as defined in [Section 8512](#).

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.78](#). Amended by [Stats.1993, c. 832 \(S.B.306\), § 1](#).)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Subdivision (a) of Section 3103 restates former Civil Code Section 4351.5(b) without substantive change. The reference to former Civil Code Section 4601 has been omitted as surplus. References to the "superior" court have been omitted as surplus. See [Section 200](#) (jurisdiction in superior court). The reference to proceedings "described in [Section 3021](#)" has been substituted for the former language making this section applicable to proceedings for dissolution, nullity, or legal separation. Other language has been revised to make clear that this section is applicable to situations in which the parents of the child are not married, such as where visitation is determined in a proceeding pursuant to the Domestic Violence Prevention Act or the Uniform Parentage Act. See [Section 3021](#) (application of part) & Comment.

Subdivision (b) continues former Civil Code Section 4351.5(l) without substantive change, insofar as it applied to grandparents. The term "protective order" has been substituted for the references to orders under specific sections formerly in the Civil Code and the Code of Civil Procedure. This is not a substantive change, since [Section 6218](#) defines "protective order" to include these orders.

Subdivision (d) continues former Civil Code Section 4351.5(k) without substantive change. The subdivision has been revised to make it clear that it is applicable to situations in which the parents of the child are not married, such as where visitation is determined in a proceeding pursuant to the Domestic Violence Prevention Act or the Uniform Parentage Act.

Subdivision (e) continues former Civil Code Section 4351.5(j) without substantive change, insofar as it applied to grandparents. A reference to "birth parent" has been substituted for the former reference to "a natural or adoptive parent." This is not a substantive change, since subdivision (h) defines "birth parent" to include a biological or adoptive parent. This amendment is intended to improve clarity by using a defined term.

Subdivision (h) is new.

See also [Sections 3011](#) (factors to be considered in determining best interest of child), 3131 (action by district attorney where child taken or detained in violation of custody order), 3133 (temporary custody order at request of district attorney); [Code Civ. Proc. § 917.7](#) (order not automatically stayed by appeal). As to the court's jurisdiction, see [Sections 3400-3425](#) (Uniform Child Custody Jurisdiction Act).

The provisions in subdivisions (c), (f), and (g) were added by 1993 Cal. Stat. ch. 832, § 1. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (4)

West's Ann. Cal. Fam. Code § 3103, CA FAM § 3103

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Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 5. Visitation Rights (Refs & Annos)

West's Ann.Cal.Fam.Code § 3104

§ 3104. Grandparent's rights; petition by grandparent

Effective: January 1, 2007

Currentness

(a) On petition to the court by a grandparent of a minor child, the court may grant reasonable visitation rights to the grandparent if the court does both of the following:

(1) Finds that there is a preexisting relationship between the grandparent and the grandchild that has engendered a bond such that visitation is in the best interest of the child.

(2) Balances the interest of the child in having visitation with the grandparent against the right of the parents to exercise their parental authority.

(b) A petition for visitation under this section may not be filed while the natural or adoptive parents are married, unless one or more of the following circumstances exist:

(1) The parents are currently living separately and apart on a permanent or indefinite basis.

(2) One of the parents has been absent for more than one month without the other spouse knowing the whereabouts of the absent spouse.

(3) One of the parents joins in the petition with the grandparents.

(4) The child is not residing with either parent.

(5) The child has been adopted by a stepparent.

At any time that a change of circumstances occurs such that none of these circumstances exist, the parent or parents may move the court to terminate grandparental visitation and the court shall grant the termination.

(c) The petitioner shall give notice of the petition to each of the parents of the child, any stepparent, and any person who has physical custody of the child, by personal service pursuant to [Section 415.10 of the Code of Civil Procedure](#).

(d) If a protective order as defined in [Section 6218](#) has been directed to the grandparent during the pendency of the proceeding, the court shall consider whether the best interest of the child requires that any visitation by that grandparent should be denied.

(e) There is a rebuttable presumption that the visitation of a grandparent is not in the best interest of a minor child if the natural or adoptive parents agree that the grandparent should not be granted visitation rights.

(f) There is a rebuttable presumption affecting the burden of proof that the visitation of a grandparent is not in the best interest of a minor child if the parent who has been awarded sole legal and physical custody of the child in another proceeding, or the parent with whom the child resides if there is currently no operative custody order objects to visitation by the grandparent.

(g) Visitation rights may not be ordered under this section if that would conflict with a right of custody or visitation of a birth parent who is not a party to the proceeding.

(h) Visitation ordered pursuant to this section shall not create a basis for or against a change of residence of the child, but shall be one of the factors for the court to consider in ordering a change of residence.

(i) When a court orders grandparental visitation pursuant to this section, the court in its discretion may, based upon the relevant circumstances of the case:

(1) Allocate the percentage of grandparental visitation between the parents for purposes of the calculation of child support pursuant to the statewide uniform guideline (Article 2 (commencing with [Section 4050](#)) of Chapter 2 of Part 2 of Division 9).

(2) Notwithstanding [Sections 3930](#) and [3951](#), order a parent or grandparent to pay to the other, an amount for the support of the child or grandchild. For purposes of this paragraph, "support" means costs related to visitation such as any of the following:

(A) Transportation.

(B) Provision of basic expenses for the child or grandchild, such as medical expenses, day care costs, and other necessities.

(j) As used in this section, "birth parent" means "birth parent" as defined in [Section 8512](#).

Credits

(Added by [Stats.1993, c. 832 \(S.B.306\), § 2.](#) Amended by [Stats.2006, c. 138 \(A.B.2517\), § 1.](#))

Notes of Decisions (14)

West's Ann. Cal. Fam. Code § 3104, CA FAM § 3104

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 5. Visitation Rights (Refs & Annos)

West's Ann.Cal.Fam.Code § 3105

§ 3105. Former legal guardians; visitation rights

Effective: January 1, 2005

Currentness

(a) The Legislature finds and declares that a parent's fundamental right to provide for the care, custody, companionship, and management of his or her children, while compelling, is not absolute. Children have a fundamental right to maintain healthy, stable relationships with a person who has served in a significant, judicially approved parental role.

(b) The court may grant reasonable visitation rights to a person who previously served as the legal guardian of a child, if visitation is determined to be in the best interest of the minor child.

(c) In the absence of a court order granting or denying visitation between a former legal guardian and his or her former minor ward, and if a dependency proceeding is not pending, a former legal guardian may maintain an independent action for visitation with his or her former minor ward. If the child does not have at least one living parent, visitation shall not be determined in a proceeding under the Family Code, but shall instead be determined in a guardianship proceeding which may be initiated for that purpose.

Credits

(Added by [Stats.2004, c. 301 \(A.B.2292\), § 1.](#))

West's Ann. Cal. Fam. Code § 3105, CA FAM § 3105

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West's Annotated California Codes

Family Code

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 6. Custody Investigation and Report

West's Ann.Cal.Fam.Code D. 8, Pt. 2, Ch. 6, Refs & Annos

Currentness

Editors' Notes

GENERAL NOTES

2004 Main Volume

<Chapter 6 was added by Stats.1993, c. 219 (A.B.1500), § 116.81.>

<Former Chapter 6, "Custody Investigation and Report", enacted by Stats.1992, c. 162 (A.B.2650), § 10, to be operative Jan. 1, 1994, comprising §§ 3110 to 3113, failed to become operative because it was repealed by Stats.1993, c. 219 (A.B.1500), § 116.80.>

West's Ann. Cal. Fam. Code D. 8, Pt. 2, Ch. 6, Refs & Annos, CA FAM D. 8, Pt. 2, Ch. 6, Refs & Annos
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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 6. Custody Investigation and Report (Refs & Annos)

West's Ann.Cal.Fam.Code § 3110

§ 3110. Court-appointed investigator

Currentness

As used in this chapter, “court-appointed investigator” means a probation officer, domestic relations investigator, or court-appointed evaluator directed by the court to conduct an investigation pursuant to this chapter.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.81.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3110 is a new section added to facilitate drafting by avoiding repetition of the list of persons referred to throughout this chapter. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3110, CA FAM § 3110

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Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 6. Custody Investigation and Report (Refs & Annos)

West's Ann.Cal.Fam.Code § 3110.5

§ 3110.5. Child custody evaluator

Effective: July 1, 2005

Currentness

(a) No person may be a court-connected or private child custody evaluator under this chapter unless the person has completed the domestic violence and child abuse training program described in [Section 1816](#) and has complied with [Rules 5.220](#) and [5.230 of the California Rules of Court](#).

(b)(1) On or before January 1, 2002, the Judicial Council shall formulate a statewide rule of court that establishes education, experience, and training requirements for all child custody evaluators appointed pursuant to this chapter, [Section 730 of the Evidence Code](#), or Chapter 15 (commencing with [Section 2032.010](#)) of Title 4 of Part 4 of the Code of Civil Procedure.

(A) The rule shall require a child custody evaluator to declare under penalty of perjury that he or she meets all of the education, experience, and training requirements specified in the rule and, if applicable, possesses a license in good standing. The Judicial Council shall establish forms to implement this section. The rule shall permit court-connected evaluators to conduct evaluations if they meet all of the qualifications established by the Judicial Council. The education, experience, and training requirements to be specified for court-connected evaluators shall include, but not be limited to, knowledge of the psychological and developmental needs of children and parent-child relationships.

(B) The rule shall require all evaluators to utilize comparable interview, assessment, and testing procedures for all parties that are consistent with generally accepted clinical, forensic, scientific, diagnostic, or medical standards. The rule shall also require evaluators to inform each adult party of the purpose, nature, and method of the evaluation.

(C) The rule may allow courts to permit the parties to stipulate to an evaluator of their choosing with the approval of the court under the circumstances set forth in subdivision (d). The rule may require courts to provide general information about how parties can contact qualified child custody evaluators in their county.

(2) On or before January 1, 2004, the Judicial Council shall include in the statewide rule of court created pursuant to this section a requirement that all court-connected and private child custody evaluators receive training in the nature of child sexual abuse. The Judicial Council shall develop standards for this training that shall include, but not be limited to, the following:

(A) Children's patterns of hiding and disclosing sexual abuse occurring in a family setting.

(B) The effects of sexual abuse on children.

- (C) The nature and extent of child sexual abuse.
 - (D) The social and family dynamics of child sexual abuse.
 - (E) Techniques for identifying and assisting families affected by child sexual abuse.
 - (F) Legal rights, protections, and remedies available to victims of child sexual abuse.
- (c) In addition to the education, experience, and training requirements established by the Judicial Council pursuant to subdivision (b), on or after January 1, 2005, no person may be a child custody evaluator under this chapter, [Section 730 of the Evidence Code](#), or Chapter 15 (commencing with [Section 2032.010](#)) of Title 4 of Part 4 of the Code of Civil Procedure unless the person meets one of the following criteria:
- (1) He or she is licensed as a physician under Chapter 5 (commencing with [Section 2000](#)) of Division 2 of the Business and Professions Code and either is a board certified psychiatrist or has completed a residency in psychiatry.
 - (2) He or she is licensed as a psychologist under Chapter 6.6 (commencing with [Section 2900](#)) of Division 2 of the Business and Professions Code.
 - (3) He or she is licensed as a marriage and family therapist under Chapter 13 (commencing with [Section 4980](#)) of Division 2 of the Business and Professions Code.
 - (4) He or she is licensed as a clinical social worker under Article 4 (commencing with [Section 4996](#)) of Chapter 14 of Division 2 of the Business and Professions Code.
 - (5) He or she is a court-connected evaluator who has been certified by the court as meeting all of the qualifications for court-connected evaluators as specified by the Judicial Council pursuant to subdivision (b).
- (d) Subdivision (c) does not apply in any case where the court determines that there are no evaluators who meet the criteria of subdivision (c) who are willing and available, within a reasonable period of time, to perform child custody evaluations. In those cases, the parties may stipulate to an individual who does not meet the criteria of subdivision (c), subject to approval by the court.
- (e) A child custody evaluator who is licensed by the Medical Board of California, the Board of Psychology, or the Board of Behavioral Sciences shall be subject to disciplinary action by that board for unprofessional conduct, as defined in the licensing law applicable to that licensee.
- (f) On or after January 1, 2005, a court-connected or private child custody evaluator may not evaluate, investigate, or mediate an issue of child custody in a proceeding pursuant to this division unless that person has completed child sexual abuse training as required by this section.

Credits

(Added by Stats.1999, c. 932 (S.B.433), § 1. Amended by Stats.2000, c. 926 (S.B.1716), § 4; Stats.2004, c. 811 (A.B.3079), § 1; Stats.2004, c. 182 (A.B.3081), § 33, operative July 1, 2005; Stats.2004, c. 811 (A.B.3079), § 1.5, operative July 1, 2005.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

2004 Amendment

Subdivisions (b) and (c) of Section 3110.5 are amended to reflect nonsubstantive reorganization of the rules governing civil discovery. [33 Cal.L.Rev.Comm. Reports 1020 (2004)].

West's Ann. Cal. Fam. Code § 3110.5, CA FAM § 3110.5

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 6. Custody Investigation and Report (Refs & Annos)

West's Ann.Cal.Fam.Code § 3111

§ 3111. Child custody evaluations; report; confidentiality and use; monetary sanction for unwarranted disclosure

Effective: January 1, 2009

Currentness

(a) In any contested proceeding involving child custody or visitation rights, the court may appoint a child custody evaluator to conduct a child custody evaluation in cases where the court determines it is in the best interests of the child. The child custody evaluation shall be conducted in accordance with the standards adopted by the Judicial Council pursuant to [Section 3117](#), and all other standards adopted by the Judicial Council regarding child custody evaluations. If directed by the court, the court-appointed child custody evaluator shall file a written confidential report on his or her evaluation. At least 10 days before any hearing regarding custody of the child, the report shall be filed with the clerk of the court in which the custody hearing will be conducted and served on the parties or their attorneys, and any other counsel appointed for the child pursuant to [Section 3150](#). The report may be considered by the court.

(b) The report shall not be made available other than as provided in subdivision (a), or as described in [Section 204 of the Welfare and Institutions Code](#) or [Section 1514.5 of the Probate Code](#). Any information obtained from access to a juvenile court case file, as defined in [subdivision \(e\) of Section 827 of the Welfare and Institutions Code](#), is confidential and shall only be disseminated as provided by [paragraph \(4\) of subdivision \(a\) of Section 827 of the Welfare and Institutions Code](#).

(c) The report may be received in evidence on stipulation of all interested parties and is competent evidence as to all matters contained in the report.

(d) If the court determines that an unwarranted disclosure of a written confidential report has been made, the court may impose a monetary sanction against the disclosing party. The sanction shall be in an amount sufficient to deter repetition of the conduct, and may include reasonable attorney's fees, costs incurred, or both, unless the court finds that the disclosing party acted with substantial justification or that other circumstances make the imposition of the sanction unjust. The court shall not impose a sanction pursuant to this subdivision that imposes an unreasonable financial burden on the party against whom the sanction is imposed. This subdivision shall become operative on January 1, 2010.

(e) The Judicial Council shall, by January 1, 2010, do the following:

(1) Adopt a form to be served with every child custody evaluation report that informs the report recipient of the confidentiality of the report and the potential consequences for the unwarranted disclosure of the report.

(2) Adopt a rule of court to require that, when a court-ordered child custody evaluation report is served on the parties, the form specified in paragraph (1) shall be included with the report.

(f) For purposes of this section, a disclosure is unwarranted if it is done either recklessly or maliciously, and is not in the best interests of the child.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.81](#). Amended by [Stats.1996, c. 761 \(S.B.1995\), § 1](#); [Stats.1999, c. 932 \(S.B.433\), § 2](#); [Stats.2002, c. 1008 \(A.B.3028\), § 16](#); [Stats.2004, c. 574 \(A.B.2228\), § 1](#); [Stats.2005, c. 22 \(S.B.1108\), § 62](#); [Stats.2008, c. 215 \(A.B.1877\), § 1](#).)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3111 restates without substantive change the first paragraph of former Civil Code Section 4602 and the first three paragraphs of former Code of Civil Procedure Section 263. The former reference to a proceeding “brought under this part,” meaning the former Family Law Act (former Part 5 (commencing with former Section 4000) of Division 4 of the Civil Code), has been omitted as unnecessary. See [Section 3021](#) (application of part). The reference to “court-appointed investigator” has been substituted for the former list of officers. This is not a substantive change. See [Section 3110](#) (“court-appointed investigator” defined).

See also [Section 3081](#) (investigation concerning whether joint custody appropriate). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (18)

West's Ann. Cal. Fam. Code § 3111, CA FAM § 3111

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 6. Custody Investigation and Report (Refs & Annos)

West's Ann.Cal.Fam.Code § 3112

§ 3112. Repayment of expenses

Effective: January 1, 2001

Currentness

(a) Where a court-appointed investigator is directed by the court to conduct a custody investigation or evaluation pursuant to this chapter or to undertake visitation work, including necessary evaluation, supervision, and reporting, the court shall inquire into the financial condition of the parent, guardian, or other person charged with the support of the minor. If the court finds the parent, guardian, or other person able to pay all or part of the expense of the investigation, report, and recommendation, the court may make an order requiring the parent, guardian, or other person to repay the court the amount the court determines proper.

(b) The repayment shall be made to the court. The court shall keep suitable accounts of the expenses and repayments and shall deposit the collections as directed by the Judicial Council.

Credits

(Added by Stats.1993, c. 219 (A.B.1500), § 116.81. Amended by Stats.2000, c. 926 (S.B.1716), § 5.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3112 continues the third paragraph of former Civil Code Section 4602 without substantive change. The reference to "court-appointed investigator" has been substituted for the former list of officers. This is not a substantive change. See [Section 3110](#) ("court-appointed investigator" defined). The reference to "maintenance" of a minor child has been omitted as surplus. See [Section 150](#) ("support" when used with reference to minor child includes maintenance and education). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3112, CA FAM § 3112

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 6. Custody Investigation and Report (Refs & Annos)

West's Ann.Cal.Fam.Code § 3113

§ 3113. Domestic violence history between parties; custody investigation procedures

Currentness

Where there has been a history of domestic violence between the parties, or where a protective order as defined in [Section 6218](#) is in effect, at the request of the party alleging domestic violence in a written declaration under penalty of perjury or at the request of a party who is protected by the order, the parties shall meet with the court-appointed investigator separately and at separate times.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.81.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3113 continues the second paragraph of former Civil Code Section 4602 without substantive change. The reference to “court-appointed investigator” has been substituted for the former list of officers. This is not a substantive change. See [Section 3110](#) (“court-appointed investigator” defined). Unlike the former section, this section does not contain a reference to the section defining “domestic violence.” This is not a substantive change. See [Section 6211](#) (“domestic violence” defined). The term “protective order” has been substituted for the references to orders under specific former sections in the Civil Code and the Code of Civil Procedure. This is not a substantive change, since [Section 6218](#) defines “protective order” to include these orders. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3113, CA FAM § 3113

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 6. Custody Investigation and Report (Refs & Annos)

West's Ann.Cal.Fam.Code § 3114

§ 3114. Appointment of counsel for minor children; recommendations

Currentness

Nothing in this chapter prohibits a court-appointed investigator from recommending to the court that counsel be appointed pursuant to Chapter 10 (commencing with [Section 3150](#)) to represent the minor child. In making that recommendation, the court-appointed investigator shall inform the court of the reasons why it would be in the best interest of the child to have counsel appointed.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.81.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3114 continues the last paragraph of former Civil Code Section 4602 without substantive change. The reference to “court-appointed investigator” has been substituted for the former list of officers. This is not a substantive change. See [Section 3110](#) (“court-appointed investigator” defined). The reference to “children” has been omitted as surplus. See [Section 10](#) (singular includes plural). See also [Section 3011](#) (factors to be considered in determining best interest of child). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3114, CA FAM § 3114

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 6. Custody Investigation and Report (Refs & Annos)

West's Ann.Cal.Fam.Code § 3115

§ 3115. Cross-examination of court-appointed investigator; waiver of right

Currentness

No statement, whether written or oral, or conduct shall be held to constitute a waiver by a party of the right to cross-examine the court-appointed investigator, unless the statement is made, or the conduct occurs, after the report has been received by a party or his or her attorney.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.81](#). Amended by [Stats.1996, c. 761 \(S.B.1995\), § 2.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3115 continues without substantive change and generalizes the fourth paragraph of former Code of Civil Procedure Section 263. The reference to "court-appointed investigator" has been added to conform to other sections in this chapter. See [Section 3110](#) ("court-appointed investigator" defined). The former reference to a "divorce" action has been omitted as unnecessary. See [Section 3021](#) (application of part). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (6)

West's Ann. Cal. Fam. Code § 3115, CA FAM § 3115

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 6. Custody Investigation and Report (Refs & Annos)

West's Ann.Cal.Fam.Code § 3116

§ 3116. Investigator's duty to assist court; scope of duty

Currentness

Nothing in this chapter limits the duty of a court-appointed investigator to assist the appointing court in the transaction of the business of the court.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.81.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3116 continues without substantive change and generalizes the last paragraph of former Code of Civil Procedure Section 263. The reference to "court-appointed investigator" has been added to conform to other sections in this chapter. See [Section 3110](#) ("court-appointed investigator" defined) & Comment. The former reference to a "divorce" action has been omitted as unnecessary. See [Section 3021](#) (application of part). The reference to the "superior" court has been omitted as surplus. See [Section 200](#) (jurisdiction in superior court). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3116, CA FAM § 3116

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 6. Custody Investigation and Report (Refs & Annos)

West's Ann.Cal.Fam.Code § 3117

§ 3117. Standards for court-connected child custody actions; guidelines
for cross-examination of court-appointed investigators; deadline

[Currentness](#)

The Judicial Council shall, by January 1, 1999, do both of the following:

- (a) Adopt standards for full and partial court-connected evaluations, investigations, and assessments related to child custody.
- (b) Adopt procedural guidelines for the expeditious and cost-effective cross-examination of court-appointed investigators, including, but not limited to, the use of electronic technology whereby the court-appointed investigator may not need to be present in the courtroom. These guidelines shall in no way limit the requirement that the court-appointed investigator be available for the purposes of cross-examination. These guidelines shall also provide for written notification to the parties of the right to cross-examine these investigators after the parties have had a reasonable time to review the investigator's report.

Credits

(Added by [Stats.1996, c. 761 \(S.B.1995\), § 3.](#))

West's Ann. Cal. Fam. Code § 3117, CA FAM § 3117

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 6. Custody Investigation and Report (Refs & Annos)

West's Ann.Cal.Fam.Code § 3118

§ 3118. Child sex abuse allegations; child custody evaluation, investigation or assessment

Effective: January 1, 2004

Currentness

(a) In any contested proceeding involving child custody or visitation rights, where the court has appointed a child custody evaluator or has referred a case for a full or partial court-connected evaluation, investigation, or assessment, and the court determines that there is a serious allegation of child sexual abuse, the court shall require an evaluation, investigation, or assessment pursuant to this section. When the court has determined that there is a serious allegation of child sexual abuse, any child custody evaluation, investigation, or assessment conducted subsequent to that determination shall be considered by the court only if the evaluation, investigation, or assessment is conducted in accordance with the minimum requirements set forth in this section in determining custody or visitation rights, except as specified in paragraph (1). For purposes of this section, a serious allegation of child sexual abuse means an allegation of child sexual abuse, as defined in [Section 11165.1 of the Penal Code](#), that is based in whole or in part on statements made by the child to law enforcement, a child welfare services agency investigator, any person required by statute to report suspected child abuse, or any other court-appointed personnel, or that is supported by substantial independent corroboration as provided for in [subdivision \(b\) of Section 3011](#). When an allegation of child abuse arises in any other circumstances in any proceeding involving child custody or visitation rights, the court may require an evaluator or investigator to conduct an evaluation, investigation, or assessment pursuant to this section. The order appointing a child custody evaluator or investigator pursuant to this section shall provide that the evaluator or investigator have access to all juvenile court records pertaining to the child who is the subject of the evaluation, investigation, or assessment. The order shall also provide that any juvenile court records or information gained from those records remain confidential and shall only be released as specified in [Section 3111](#).

(1) This section does not apply to any emergency court-ordered partial investigation that is conducted for the purpose of assisting the court in determining what immediate temporary orders may be necessary to protect and meet the immediate needs of a child. This section does apply when the emergency is resolved and the court is considering permanent child custody or visitation orders.

(2) This section does not prohibit a court from considering evidence relevant to determining the safety and protection needs of the child.

(3) Any evaluation, investigation, or assessment conducted pursuant to this section shall be conducted by an evaluator or investigator who meets the qualifications set forth in [Section 3110.5](#).

(b) The evaluator or investigator shall, at a minimum, do all of the following:

- (1) Consult with the agency providing child welfare services and law enforcement regarding the allegations of child sexual abuse, and obtain recommendations from these professionals regarding the child's safety and the child's need for protection.
- (2) Review and summarize the child welfare services agency file. No document contained in the child welfare services agency file may be photocopied, but a summary of the information in the file, including statements made by the children and the parents, and the recommendations made or anticipated to be made by the child welfare services agency to the juvenile court, may be recorded by the evaluator or investigator, except for the identity of the reporting party. The evaluator's or investigator's notes summarizing the child welfare services agency information shall be stored in a file separate from the evaluator's or investigator's file and may only be released to either party under order of the court.
- (3) Obtain from a law enforcement investigator all available information obtained from criminal background checks of the parents and any suspected perpetrator that is not a parent, including information regarding child abuse, domestic violence, or substance abuse.
- (4) Review the results of a multidisciplinary child interview team (hereafter MDIT) interview if available, or if not, or if the evaluator or investigator believes the MDIT interview is inadequate for purposes of the evaluation, investigation, or assessment, interview the child or request an MDIT interview, and shall wherever possible avoid repeated interviews of the child.
- (5) Request a forensic medical examination of the child from the appropriate agency, or include in the report required by paragraph (6) a written statement explaining why the examination is not needed.
- (6) File a confidential written report with the clerk of the court in which the custody hearing will be conducted and which shall be served on the parties or their attorneys at least 10 days prior to the hearing. This report may not be made available other than as provided in this subdivision. This report shall include, but is not limited to, the following:
 - (A) Documentation of material interviews, including any MDIT interview of the child or the evaluator or investigator, written documentation of interviews with both parents by the evaluator or investigator, and interviews with other witnesses who provided relevant information.
 - (B) A summary of any law enforcement investigator's investigation, including information obtained from the criminal background check of the parents and any suspected perpetrator that is not a parent, including information regarding child abuse, domestic violence, or substance abuse.
 - (C) Relevant background material, including, but not limited to, a summary of a written report from any therapist treating the child for suspected child sexual abuse, excluding any communication subject to [Section 1014 of the Evidence Code](#), reports from other professionals, and the results of any forensic medical examination and any other medical examination or treatment that could help establish or disprove whether the child has been the victim of sexual abuse.
 - (D) The written recommendations of the evaluator or investigator regarding the therapeutic needs of the child and how to ensure the safety of the child.

(E) A summary of the following information: whether the child and his or her parents are or have been the subject of a child abuse investigation and the disposition of that investigation; the name, location, and telephone number of the children's services worker; the status of the investigation and the recommendations made or anticipated to be made regarding the child's safety; and any dependency court orders or findings that might have a bearing on the custody dispute.

(F) Any information regarding the presence of domestic violence or substance abuse in the family that has been obtained from a child protective agency in accordance with paragraphs (1) and (2), a law enforcement agency, medical personnel or records, prior or currently treating therapists, excluding any communication subject to [Section 1014 of the Evidence Code](#), or from interviews conducted or reviewed for this evaluation, investigation, or assessment.

(G) Which, if any, family members are known to have been deemed eligible for assistance from the Victims of Crime Program due to child abuse or domestic violence.

(H) Any other information the evaluator or investigator believes would be helpful to the court in determining what is in the best interests of the child.

(c) If the evaluator or investigator obtains information as part of a family court mediation, that information shall be maintained in the family court file, which is not subject to subpoena by either party. If, however, the members of the family are the subject of an ongoing child welfare services investigation, or the evaluator or investigator has made a child welfare services referral, the evaluator or investigator shall so inform the family law judicial officer in writing and this information shall become part of the family law file. This subdivision may not be construed to authorize or require a mediator to disclose any information not otherwise authorized or required by law to be disclosed.

(d) In accordance with [subdivision \(d\) of Section 11167 of the Penal Code](#), the evaluator or investigator may not disclose any information regarding the identity of any person making a report of suspected child abuse. Nothing in this section is intended to limit any disclosure of information by any agency that is otherwise required by law or court order.

(e) The evaluation, investigation, or assessment standards set forth in this section represent minimum requirements of evaluation and the court shall order further evaluation beyond these minimum requirements when necessary to determine the safety needs of the child.

(f) If the court orders an evaluation, investigation, or assessment pursuant to this section, the court shall consider whether the best interests of the child require that a temporary order be issued that limits visitation with the parent against whom the allegations have been made to situations in which a third person specified by the court is present or whether visitation will be suspended or denied in accordance with [Section 3011](#).

(g) An evaluation, investigation, or assessment pursuant to this section shall be suspended if a petition is filed to declare the child a dependent child of the juvenile court pursuant to [Section 300 of the Welfare and Institutions Code](#), and all information gathered by the evaluator or investigator shall be made available to the juvenile court.

(h) This section may not be construed to authorize a court to issue any orders in a proceeding pursuant to this division regarding custody or visitation with respect to a minor child who is the subject of a dependency hearing in juvenile court or to otherwise supersede [Section 302 of the Welfare and Institutions Code](#).

Credits

(Added by [Stats.2000, c. 926 \(S.B.1716\), § 6.](#) Amended by [Stats.2002, c. 305 \(S.B.1704\), § 1;](#) [Stats.2003, c. 62 \(S.B.600\), § 87.](#))

West's Ann. Cal. Fam. Code § 3118, CA FAM § 3118

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West's Annotated California Codes

Family Code

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 7. Action for Exclusive Custody

West's Ann.Cal.Fam.Code D. 8, Pt. 2, Ch. 7, Refs & Annos

Currentness

West's Ann. Cal. Fam. Code D. 8, Pt. 2, Ch. 7, Refs & Annos, CA FAM D. 8, Pt. 2, Ch. 7, Refs & Annos

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 7. Action for Exclusive Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3120

§ 3120. Action for exclusive custody; order

Currentness

Without filing a petition for dissolution of marriage or legal separation of the parties, the husband or wife may bring an action for the exclusive custody of the children of the marriage. The court may, during the pendency of the action, or at the final hearing thereof, or afterwards, make such order regarding the support, care, custody, education, and control of the children of the marriage as may be just and in accordance with the natural rights of the parents and the best interest of the children. The order may be modified or terminated at any time thereafter as the natural rights of the parties and the best interest of the children may require.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3120 continues former Civil Code Section 4603 without substantive change. The reference to "decree" has been omitted as surplus. See [Section 100](#) ("order" includes decree, as appropriate). The reference to "terminated" has been substituted for the former reference to "revoked." This is not a substantive change. See also [Section 3011](#) (factors to be considered in determining best interest of child); [Code Civ. Proc. § 917.7](#) (order not automatically stayed by appeal). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(53\)](#)

West's Ann. Cal. Fam. Code § 3120, CA FAM § 3120

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 7. Action for Exclusive Custody (Refs & Annos)

West's Ann.Cal.Fam.Code § 3121

§ 3121. Attorney's fees and costs; findings; temporary order; default; statewide rule of court

Effective: January 1, 2011

Currentness

(a) In any proceeding pursuant to [Section 3120](#), and in any proceeding subsequent to entry of a related judgment, the court shall ensure that each party has access to legal representation, including access early in the proceedings, to preserve each party's rights by ordering, if necessary based on the income and needs assessments, one party, except a government entity, to pay to the other party, or to the other party's attorney, whatever amount is reasonably necessary for attorney's fees and for the cost of maintaining or defending the proceeding during the pendency of the proceeding.

(b) When a request for attorney's fees and costs is made, the court shall make findings on whether an award of attorney's fees and costs under this section is appropriate, whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties. If the findings demonstrate disparity in access and ability to pay, the court shall make an order awarding attorney's fees and costs. A party who lacks the financial ability to hire an attorney may request, as an in pro per litigant, that the court order the other party, if that other party has the financial ability, to pay a reasonable amount to allow the unrepresented party to retain an attorney in a timely manner before proceedings in the matter go forward.

(c) Attorney's fees and costs within this section may be awarded for legal services rendered or costs incurred before or after the commencement of the proceeding.

(d) The court shall augment or modify the original award for attorney's fees and costs as may be reasonably necessary for the prosecution or defense of a proceeding described in [Section 3120](#), or any proceeding related thereto, including after any appeal has been concluded.

(e) Except as provided in subdivision (f), an application for a temporary order making, augmenting, or modifying an award of attorney's fees, including a reasonable retainer to hire an attorney, or costs, or both, shall be made by motion on notice or by an order to show cause during the pendency of any proceeding described in [Section 3120](#).

(f) The court shall rule on an application for fees under this section within 15 days of the hearing on the motion or order to show cause. An order described in subdivision (a) may be made without notice by an oral motion in open court at either of the following times:

(1) At the time of the hearing of the cause on the merits.

(2) At any time before entry of judgment against a party whose default has been entered pursuant to [Section 585](#) or [586 of the Code of Civil Procedure](#). The court shall rule on any motion made pursuant to this subdivision within 15 days and prior to the entry of any judgment.

(g) The Judicial Council shall, by January 1, 2012, adopt a statewide rule of court to implement this section and develop a form for the information that shall be submitted to the court to obtain an award of attorney's fees under this section.

Credits

(Added by [Stats.2004, c. 472 \(A.B.2148\), § 3](#). Amended by [Stats.2006, c. 538 \(S.B.1852\), § 158](#); [Stats.2010, c. 352 \(A.B.939\), § 13](#).)

West's Ann. Cal. Fam. Code § 3121, CA FAM § 3121

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West's Annotated California Codes

Family Code

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 8. Location of Missing Party or Child

West's Ann.Cal.Fam.Code D. 8, Pt. 2, Ch. 8, Refs & Annos

Currentness

West's Ann. Cal. Fam. Code D. 8, Pt. 2, Ch. 8, Refs & Annos, CA FAM D. 8, Pt. 2, Ch. 8, Refs & Annos

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 8. Location of Missing Party or Child (Refs & Annos)

West's Ann.Cal.Fam.Code § 3130

§ 3130. Custody petitions or temporary custody orders; duties of district attorney

Effective: January 1, 2009

Currentness

If a petition to determine custody of a child has been filed in a court of competent jurisdiction, or if a temporary order pending determination of custody has been entered in accordance with Chapter 3 (commencing with [Section 3060](#)), and the whereabouts of a party in possession of the child are not known, or there is reason to believe that the party may not appear in the proceedings although ordered to appear personally with the child pursuant to [Section 3430](#), the district attorney shall take all actions necessary to locate the party and the child and to procure compliance with the order to appear with the child for purposes of adjudication of custody. The petition to determine custody may be filed by the district attorney.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.2008, c. 699 (S.B.1241), § 2.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3130 continues former Civil Code Section 4604(a) without substantive change. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (1)

West's Ann. Cal. Fam. Code § 3130, CA FAM § 3130

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 8. Location of Missing Party or Child (Refs & Annos)

West's Ann.Cal.Fam.Code § 3131

§ 3131. Custody or visitation orders; duties of district attorney

Currentness

If a custody or visitation order has been entered by a court of competent jurisdiction and the child is taken or detained by another person in violation of the order, the district attorney shall take all actions necessary to locate and return the child and the person who violated the order and to assist in the enforcement of the custody or visitation order or other order of the court by use of an appropriate civil or criminal proceeding.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3131 continues former Civil Code Section 4604(b) without substantive change. The word "order" has been substituted for "decree." This is not a substantive change. See [Section 100](#) ("order" includes decree, as appropriate). The phrase "and the child" has been omitted as surplus. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (2)

West's Ann. Cal. Fam. Code § 3131, CA FAM § 3131

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 8. Location of Missing Party or Child (Refs & Annos)

West's Ann.Cal.Fam.Code § 3132

§ 3132. District attorney to act on behalf of court

Currentness

In performing the functions described in [Sections 3130](#) and [3131](#), the district attorney shall act on behalf of the court and shall not represent any party to the custody proceedings.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3132 continues first sentence of former Civil Code Section 4604(c) without substantive change. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3132, CA FAM § 3132

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 8. Location of Missing Party or Child (Refs & Annos)

West's Ann.Cal.Fam.Code § 3133

§ 3133. Temporary custody orders; temporary sole physical custody

Currentness

If the district attorney represents to the court, by a written declaration under penalty of perjury, that a temporary custody order is needed to recover a child who is being detained or concealed in violation of a court order or a parent's right to custody, the court may issue an order, placing temporary sole physical custody in the parent or person recommended by the district attorney to facilitate the return of the child to the jurisdiction of the court, pending further hearings. If the court determines that it is not in the best interest of the child to place temporary sole physical custody in the parent or person recommended by the district attorney, the court shall appoint a person to take charge of the child and return the child to the jurisdiction of the court.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3133 continues the last two sentences of former Civil Code Section 4604(c) without substantive change. See also [Sections 3007](#) (“sole physical custody” defined), 3011 (factors to be considered in determining best interest of child). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3133, CA FAM § 3133

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

End of Document

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[West's Annotated California Codes](#)

[Family Code \(Refs & Annos\)](#)

[Division 8. Custody of Children \(Refs & Annos\)](#)

[Part 2. Right to Custody of Minor Child \(Refs & Annos\)](#)

[Chapter 8. Location of Missing Party or Child \(Refs & Annos\)](#)

West's Ann.Cal.Fam.Code § 3134

§ 3134. Payment of district attorney's expenses

Currentness

(a) When the district attorney incurs expenses pursuant to this chapter, including expenses incurred in a sister state, payment of the expenses may be advanced by the county subject to reimbursement by the state, and shall be audited by the Controller and paid by the State Treasury according to law.

(b) The court in which the custody proceeding is pending or which has continuing jurisdiction shall, if appropriate, allocate liability for the reimbursement of actual expenses incurred by the district attorney to either or both parties to the proceedings, and that allocation shall constitute a judgment for the state for the funds advanced pursuant to this section. The county shall take reasonable action to enforce that liability and shall transmit all recovered funds to the state.

Credits

([Stats.1992, c. 162 \(A.B.2650\), § 10, operative Jan. 1, 1994.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3134 continues former Civil Code Section 4605 without substantive change. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (3)

West's Ann. Cal. Fam. Code § 3134, CA FAM § 3134

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 8. Location of Missing Party or Child (Refs & Annos)

West's Ann.Cal.Fam.Code § 3134.5

§ 3134.5. Protective custody warrant; order to freeze assets; service; dismissal of warrant; order terminated, modified, or vacated; service of notice of dismissal

Effective: January 1, 2013

Currentness

(a) Upon request of the district attorney, the court may issue a protective custody warrant to secure the recovery of an unlawfully detained or concealed child. The request by the district attorney shall include a written declaration under penalty of perjury that a warrant for the child is necessary in order for the district attorney to perform the duties described in [Sections 3130](#) and [3131](#). The protective custody warrant for the child shall contain an order that the arresting agency shall place the child in protective custody, or return the child as directed by the court. The protective custody warrant for the child may also contain an order to freeze the California assets of the party alleged to be in possession of the child. The protective custody warrant may be served in any county in the same manner as a warrant of arrest and may be served at any time of the day or night. For purposes of this subdivision, “assets” means funds held in a depository institution, as defined in [subdivision \(a\) of Section 1420 of the Financial Code](#), in California.

(b) Upon a declaration of the district attorney that the child has been recovered or that the warrant is otherwise no longer required, the court may dismiss the warrant without further court proceedings.

(c) Upon noticed motion, any order to freeze assets pursuant to subdivision (a) may be terminated, modified, or vacated by the court upon a finding that the release of the assets will not jeopardize the safety or best interest of the child.

(d) If an asset freeze order is entered pursuant to subdivision (a), and the court subsequently dismisses the warrant pursuant to subdivision (b), notice of the dismissal shall be immediately served on the depository institutions holding any assets pursuant to the freeze order.

Credits

(Added by [Stats.1996, c. 988 \(A.B.2936\), § 1.5](#). Amended by [Stats.2012, c. 276 \(S.B.1206\), § 3.](#))

West's Ann. Cal. Fam. Code § 3134.5, CA FAM § 3134.5

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 8. Location of Missing Party or Child (Refs & Annos)

West's Ann.Cal.Fam.Code § 3135

§ 3135. Effect of Part 3 on authority of district attorney or arresting agency

Effective: January 1, 2000

Currentness

Part 3 (commencing with [Section 3400](#)) does not limit the authority of a district attorney or arresting agency to act pursuant to this chapter, [Section 279.6 of the Penal Code](#), or any other applicable law.

Credits

(Added by [Stats.1999, c. 867 \(S.B.668\), § 1.](#))

West's Ann. Cal. Fam. Code § 3135, CA FAM § 3135

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West's Annotated California Codes

Family Code

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 11. Mediation of Custody and Visitation Issues

West's Ann.Cal.Fam.Code D. 8, Pt. 2, Ch. 11, Refs & Annos

Currentness

Editors' Notes

GENERAL NOTES

2004 Main Volume

<Chapter 11 was added by Stats.1993, c. 219 (A.B.1500), § 116.87.>

<Former Chapter 11, "Mediation of Visitation or Custody Issues", enacted by Stats.1992, c. 162 (A.B.2650), § 10, to be operative Jan. 1, 1994, comprising §§ 3155 to 3183, failed to become operative because it was repealed by Stats.1993, c. 219 (A.B.1500), § 116.86.>

West's Ann. Cal. Fam. Code D. 8, Pt. 2, Ch. 11, Refs & Annos, CA FAM D. 8, Pt. 2, Ch. 11, Refs & Annos
Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

End of Document

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West's Annotated California Codes

Family Code

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 11. Mediation of Custody and Visitation Issues

Article 1. General Provisions

West's Ann.Cal.Fam.Code D. 8, Pt. 2, Ch. 11, Art. 1, Refs & Annos

Currentness

Editors' Notes

GENERAL NOTES

2004 Main Volume

<Article 1 was added by Stats.1993, c. 219 (A.B.1500), § 116.87.>

West's Ann. Cal. Fam. Code D. 8, Pt. 2, Ch. 11, Art. 1, Refs & Annos, CA FAM D. 8, Pt. 2, Ch. 11, Art. 1, Refs & Annos
Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

End of Document

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[West's Annotated California Codes](#)

[Family Code \(Refs & Annos\)](#)

[Division 8. Custody of Children \(Refs & Annos\)](#)

[Part 2. Right to Custody of Minor Child \(Refs & Annos\)](#)

[Chapter 11. Mediation of Custody and Visitation Issues \(Refs & Annos\)](#)

[Article 1. General Provisions \(Refs & Annos\)](#)

[West's Ann.Cal.Fam.Code § 3160](#)

[§ 3160. Mediators; availability; duties of court](#)

[Currentness](#)

Each superior court shall make a mediator available. The court is not required to institute a family conciliation court in order to provide mediation services.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3160 continues without substantive change and generalizes the first and third sentences of former Civil Code Section 4607(b). Generalizing this provision means that it is also applicable to mediation involving a stepparent or grandparent.

This chapter continues the rules in former Civil Code Section 4351.5 (mediation of stepparent or grandparent visitation) and former Civil Code Sections 4607-4607.2 (mediation of contested custody or visitation). Where one of the former sections provided a rule, but the other did not, the chapter generalizes the rule to apply to both types of mediation. See Sections 3160 (superior courts to provide mediation services), 3162 (uniform standards of practice for mediation), 3163 (local court rules), 3164 (qualifications of mediator), 3172 (mediation available where paternity is at issue), 3173 (mediation of dispute concerning existing order), 3175 (mediation to be set before or concurrent with hearing), 3176 (notice of mediation or hearing), 3180(b) (requirement that mediator effect settlement in best interest of child), 3181 (separate mediation where domestic violence), 3183 (recommendations to court), 3184 (recommendations that counsel be appointed for minor child), 3185 (hearing on issues not settled by mediation). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(1\)](#)

West's Ann. Cal. Fam. Code § 3160, CA FAM § 3160

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3161

§ 3161. Purpose of mediation proceedings

Currentness

The purposes of a mediation proceeding are as follows:

- (a) To reduce acrimony that may exist between the parties.
- (b) To develop an agreement assuring the child close and continuing contact with both parents that is in the best interest of the child, consistent with [Sections 3011](#) and [3020](#).
- (c) To effect a settlement of the issue of visitation rights of all parties that is in the best interest of the child.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\)](#), § 116.87. Amended by [Stats.1997, c. 849 \(A.B.200\)](#), § 5.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3161 continues without substantive change the third sentence of former Civil Code Section 4607(a) and the second sentence of former Civil Code Section 4351.5(c). The reference to "children" has been omitted as surplus. See [Section 10](#) (singular includes plural). See also [Section 3011](#) (factors to be considered in determining best interest of child). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (1)

West's Ann. Cal. Fam. Code § 3161, CA FAM § 3161

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

[West's Annotated California Codes](#)

[Family Code \(Refs & Annos\)](#)

[Division 8. Custody of Children \(Refs & Annos\)](#)

[Part 2. Right to Custody of Minor Child \(Refs & Annos\)](#)

[Chapter 11. Mediation of Custody and Visitation Issues \(Refs & Annos\)](#)

[Article 1. General Provisions \(Refs & Annos\)](#)

West's Ann.Cal.Fam.Code § 3162

§ 3162. Uniform standards of practice; contents; adoption by Judicial Council

[Currentness](#)

(a) Mediation of cases involving custody and visitation concerning children shall be governed by uniform standards of practice adopted by the Judicial Council.

(b) The standards of practice shall include, but not be limited to, all of the following:

(1) Provision for the best interest of the child and the safeguarding of the rights of the child to frequent and continuing contact with both parents, consistent with [Sections 3011](#) and [3020](#).

(2) Facilitation of the transition of the family by detailing factors to be considered in decisions concerning the child's future.

(3) The conducting of negotiations in such a way as to equalize power relationships between the parties.

(c) In adopting the standards of practice, the Judicial Council shall consider standards developed by recognized associations of mediators and attorneys and other relevant standards governing mediation of proceedings for the dissolution of marriage.

(d) The Judicial Council shall offer training with respect to the standards to mediators.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\)](#), § 116.87. Amended by [Stats.1997, c. 849 \(A.B.200\)](#), § 6.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3162 continues without substantive change and generalizes former Civil Code Section 4607.1. The part of the former section that directed the Judicial Council to adopt uniform standards of practice by Jan. 1, 1991, has been omitted as surplus. See Cal. R. Ct. App. Div. I § 26 (1992) (Judicial Council Uniform Standards of Practice for Court-Connected Mediation of

Child Custody and Visitation Disputes). See [Section 3160](#) Comment (generalization of provisions to apply both to mediation of stepparent or grandparent visitation and to mediation of contested issues).

See also [Sections 1819](#) (destruction of records of child custody or visitation mediation), 1850 (statewide coordination of family mediation and conciliation services), 3011 (factors to be considered in determining best interest of child). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3162, CA FAM § 3162

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3163

§ 3163. Local rules; development

Currentness

Courts shall develop local rules to respond to requests for a change of mediators or to general problems relating to mediation.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3163 continues without substantive change and generalizes former Civil Code Section 4607(g). See [Section 3160](#) Comment (generalization of provisions to apply both to mediation of stepparent or grandparent visitation and to mediation of contested issues). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (3)

West's Ann. Cal. Fam. Code § 3163, CA FAM § 3163

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3164

§ 3164. Qualifications of mediators

Currentness

(a) The mediator may be a member of the professional staff of a family conciliation court, probation department, or mental health services agency, or may be any other person or agency designated by the court.

(b) The mediator shall meet the minimum qualifications required of a counselor of conciliation as provided in [Section 1815](#).

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Subdivision (a) of Section 3164 continues without substantive change and generalizes the second sentence of former Civil Code Section 4607(b). Subdivision (b) continues without substantive change the last sentence of former Civil Code Section 4607(b) and the last sentence of former Civil Code Section 4351.5(c). See [Section 3160](#) Comment (generalization of provisions to apply both to mediation of stepparent or grandparent visitation and to mediation of contested issues). See also [Section 1816](#) (continuing instruction programs in domestic violence). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3164, CA FAM § 3164

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

End of Document

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3165

§ 3165. Continuing education; clinical supervisors of evaluators, investigators, and mediators

Currentness

Any person, regardless of administrative title, hired on or after January 1, 1998, who is responsible for clinical supervision of evaluators, investigators, or mediators or who directly supervises or administers the Family Court Services evaluation or mediation programs shall meet the same continuing education requirements specified in [Section 1816](#) for supervising and associate counselors of conciliation.

Credits

(Added by [Stats.1996, c. 761 \(S.B.1995\), § 4.](#))

Notes of Decisions (1)

West's Ann. Cal. Fam. Code § 3165, CA FAM § 3165

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

End of Document

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West's Annotated California Codes

Family Code

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 11. Mediation of Custody and Visitation Issues

Article 2. Availability of Mediation

West's Ann.Cal.Fam.Code D. 8, Pt. 2, Ch. 11, Art. 2, Refs & Annos

Currentness

Editors' Notes

GENERAL NOTES

2004 Main Volume

<Article 2 was added by Stats.1993, c. 219 (A.B.1500), § 116.87.>

West's Ann. Cal. Fam. Code D. 8, Pt. 2, Ch. 11, Art. 2, Refs & Annos, CA FAM D. 8, Pt. 2, Ch. 11, Art. 2, Refs & Annos
Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

End of Document

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 2. Availability of Mediation (Refs & Annos)

West's Ann.Cal.Fam.Code § 3170

§ 3170. Setting matters for mediation; guidelines for handling domestic violence cases

Effective: January 1, 2013

Currentness

(a) If it appears on the face of a petition, application, or other pleading to obtain or modify a temporary or permanent custody or visitation order that custody, visitation, or both are contested, the court shall set the contested issues for mediation.

(b) Domestic violence cases shall be handled by Family Court Services in accordance with a separate written protocol approved by the Judicial Council. The Judicial Council shall adopt guidelines for services, other than services provided under this chapter, that courts or counties may offer to parents who have been unable to resolve their disputes. These services may include, but are not limited to, parent education programs, booklets, video recordings, or referrals to additional community resources.

Credits

(Added by Stats.1993, c. 219 (A.B.1500), § 116.87. Amended by Stats.1996, c. 761 (S.B.1995), § 5; Stats.2009, c. 88 (A.B.176), § 37; Stats.2012, c. 470 (A.B.1529), § 18.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3170 restates the first part of the first sentence of former Civil Code Section 4607(a) without substantive change. The reference to “to obtain or modify a temporary or permanent custody or visitation order” has been substituted for “as provided in [Section 4600](#), 4600.1, or [4601](#). This is not a substantive change. The reference to “children” has been omitted as surplus. See [Section 10](#) (singular includes plural). See also [Section 3175](#) (mediation to be set before or concurrent with hearing). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

2009 Amendment

Section 3170 is amended to reflect advances in recording technology and for consistency of terminology. For a similar reform, see 2002 Cal. Stat. ch. 1068 (replacing numerous references to “audiotape” in Civil Discovery Act with either “audio technology,” “audio recording,” or “audio record,” as context required). [37 Cal. L. Revision Comm'n Reports 211 (2007)].

2012 Amendment

Subdivision (b) of Section 3170 is amended to reflect the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally [Gov't Code §§ 77000-77655](#)). [39 Cal.L.Rev.Com. Reports 157 (2009)].

Notes of Decisions (7)

West's Ann. Cal. Fam. Code § 3170, CA FAM § 3170

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

End of Document

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 2. Availability of Mediation (Refs & Annos)

West's Ann.Cal.Fam.Code § 3171

§ 3171. Stepparent or grandparent visitation; setting matter for mediation; waiver of parental right to object or require a hearing

Currentness

(a) If a stepparent or grandparent has petitioned, or otherwise applied, for a visitation order pursuant to Chapter 5 (commencing with [Section 3100](#)), the court shall set the matter for mediation.

(b) A natural or adoptive parent who is not a party to the proceeding is not required to participate in the mediation proceeding, but failure to participate is a waiver of that parent's right to object to a settlement reached by the other parties during mediation or to require a hearing on the matter.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Subdivision (a) of Section 3171 continues the first sentence of former Civil Code Section 4351.5(c) without substantive change. Subdivision (b) continues former Civil Code Section 4351.5(g) without substantive change.

In subdivision (a), a reference to Chapter 5 (commencing with [Section 3100](#)) has been substituted for the narrower reference to stepparent and grandparent visitation pursuant to former Civil Code Section 4351.5. This makes mediation available in the situations described in [Family Code Section 3102](#) (former Civil Code Section 197.5)--cases where grandparents and other relatives seek visitation of a minor child whose parent or parents are deceased. The former reference to a request for an order of "reasonable" visitation rights has been omitted. This is not a substantive change, since the sections in Chapter 5 (commencing with [Section 3100](#)) control the type of visitation order that may be issued and these sections require that visitation rights must be in the best interest of the child.

See also [Section 3011](#) (factors to be considered in determining best interest of child). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3171, CA FAM § 3171

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 2. Availability of Mediation (Refs & Annos)

West's Ann.Cal.Fam.Code § 3172

§ 3172. Paternity disputes; availability of mediation proceedings

Currentness

Mediation shall not be denied to the parties on the basis that paternity is at issue in a proceeding before the court.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3172 continues without substantive change and generalizes the last sentence of former Civil Code Section 4607(a). See [Section 3160](#) Comment (generalization of provisions to apply both to mediation of stepparent or grandparent visitation and to mediation of contested issues). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3172, CA FAM § 3172

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

End of Document

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 2. Availability of Mediation (Refs & Annos)

West's Ann.Cal.Fam.Code § 3173

§ 3173. Mediation of disputes relating to existing custody or visitation orders; filing of petition

Effective: January 1, 2013

Currentness

(a) Upon an order of the presiding judge of a superior court authorizing the procedure in that court, a petition may be filed pursuant to this chapter for mediation of a dispute relating to an existing order for custody, visitation, or both.

(b) The mediation of a dispute concerning an existing order shall be set not later than 60 days after the filing of the petition.

Credits

(Added by Stats.1993, c. 219 (A.B.1500), § 116.87. Amended by Stats.2012, c. 470 (A.B.1529), § 19.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3173 continues without substantive change and generalizes the second sentence of former Civil Code Section 4607(a). See [Section 3160](#) Comment (generalization of provisions to apply both to mediation of stepparent or grandparent visitation and to mediation of contested issues). In subdivision (a), the reference to “or both” has been added. This is not a substantive change. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

2012 Amendment

Subdivision (a) of Section 3173 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally [Gov't Code §§ 77000-77655](#)). See, e.g., [Gov't Code §§ 77001](#) (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”); see also [Cal. R. Ct. 10.603\(a\)](#) (responsibilities of presiding judge of superior court). [39 Cal.L.Rev.Comm. Reports 157 (2009)].

West's Ann. Cal. Fam. Code § 3173, CA FAM § 3173

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 2. Availability of Mediation (Refs & Annos)

West's Ann.Cal.Fam.Code § 3174

§ 3174. Inoperative

Currentness

West's Ann. Cal. Fam. Code § 3174, CA FAM § 3174

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

End of Document

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West's Annotated California Codes

Family Code

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 11. Mediation of Custody and Visitation Issues

Article 3. Mediation Proceedings

West's Ann.Cal.Fam.Code D. 8, Pt. 2, Ch. 11, Art. 3, Refs & Annos

Currentness

Editors' Notes

GENERAL NOTES

2004 Main Volume

<Article 3 was added by Stats.1993, c. 219 (A.B.1500), § 116.87.>

West's Ann. Cal. Fam. Code D. 8, Pt. 2, Ch. 11, Art. 3, Refs & Annos, CA FAM D. 8, Pt. 2, Ch. 11, Art. 3, Refs & Annos
Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

End of Document

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 3. Mediation Proceedings (Refs & Annos)

West's Ann.Cal.Fam.Code § 3175

§ 3175. Setting matter before or concurrent with hearing

Currentness

If a matter is set for mediation pursuant to this chapter, the mediation shall be set before or concurrent with the setting of the matter for hearing.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3175 restates without substantive change and generalizes the last part of the first sentence of former Civil Code Section 4607(a). See [Section 3160](#) Comment (generalization of provisions to apply both to mediation of stepparent or grandparent visitation and to mediation of contested issues). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3175, CA FAM § 3175

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 3. Mediation Proceedings (Refs & Annos)

West's Ann.Cal.Fam.Code § 3176

§ 3176. Notice of mediation and hearing

Effective: January 1, 2003

Currentness

(a) Notice of mediation and of any hearing to be held pursuant to this chapter shall be given to the following persons:

(1) Where mediation is required to settle a contested issue of custody or visitation, to each party and to each party's counsel of record.

(2) Where a stepparent or grandparent seeks visitation rights, to the stepparent or grandparent seeking visitation rights, to each parent of the child, and to each parent's counsel of record.

(b) Notice shall be given by certified mail, return receipt requested, postage prepaid, to the last known address.

(c) Notice of mediation pursuant to [Section 3188](#) shall state that all communications involving the mediator shall be kept confidential between the mediator and the disputing parties.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87](#). Amended by [Stats.2002, c. 1077 \(S.B.174\), § 1](#).)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3176 restates without substantive change and generalizes former Civil Code Section 4351.5(i). The former reference to proceedings for dissolution of marriage, for nullity of marriage, or for legal separation of the parties has been omitted as unnecessary. See [Section 3021](#) (application of part) & Comment. See also [Section 3160](#) Comment (generalization of provisions to apply both to mediation of stepparent or grandparent visitation and to mediation of contested issues). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3176, CA FAM § 3176

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 3. Mediation Proceedings (Refs & Annos)

West's Ann.Cal.Fam.Code § 3177

§ 3177. Confidentiality of proceedings

Currentness

Mediation proceedings pursuant to this chapter shall be held in private and shall be confidential. All communications, verbal or written, from the parties to the mediator made in the proceeding are official information within the meaning of [Section 1040 of the Evidence Code](#).

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3177 continues former Civil Code Sections 4351.5(d) and 4607(c) without substantive change. See also [Section 1819](#) (destruction of records of child custody or visitation mediation). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (3)

West's Ann. Cal. Fam. Code § 3177, CA FAM § 3177

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 3. Mediation Proceedings (Refs & Annos)

West's Ann.Cal.Fam.Code § 3178

§ 3178. Restrictions on mediation agreements

Currentness

An agreement reached by the parties as a result of mediation shall be limited as follows:

- (a) Where mediation is required to settle a contested issue of custody or visitation, the agreement shall be limited to the resolution of issues relating to parenting plans, custody, visitation, or a combination of these issues.
- (b) Where a stepparent or grandparent seeks visitation rights, the agreement shall be limited to the resolution of issues relating to visitation.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3178 restates without substantive change the fifth sentence of former Civil Code Section 4351.5(f) and the fifth sentence of former Civil Code Section 4607(e). See also [Section 3185](#) (hearing on issues not settled by mediation). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3178, CA FAM § 3178

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 3. Mediation Proceedings (Refs & Annos)

West's Ann.Cal.Fam.Code § 3179

§ 3179. Modification of agreements

Currentness

A custody or visitation agreement reached as a result of mediation may be modified at any time at the discretion of the court, subject to Chapter 1 (commencing with [Section 3020](#)), Chapter 2 (commencing with [Section 3040](#)), Chapter 4 (commencing with [Section 3080](#)), and Chapter 5 (commencing with [Section 3100](#)).

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3179 restates the last sentences of former Civil Code Sections 4351.5(f) and 4607(e) without substantive change. Broader references to Family Code sections have been substituted for the references to former Civil Code Sections 4600, 4600.5, and 4601. These are not substantive changes. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (1)

West's Ann. Cal. Fam. Code § 3179, CA FAM § 3179

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 3. Mediation Proceedings (Refs & Annos)

West's Ann.Cal.Fam.Code § 3180

§ 3180. Duties of mediators

Currentness

(a) In mediation proceedings pursuant to this chapter, the mediator has the duty to assess the needs and interests of the child involved in the controversy, and is entitled to interview the child where the mediator considers the interview appropriate or necessary.

(b) The mediator shall use his or her best efforts to effect a settlement of the custody or visitation dispute that is in the best interest of the child, as provided in [Section 3011](#).

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Subdivision (a) of Section 3180 continues without substantive change the second sentence of former Civil Code Section 4351.5(e) and the second sentence of former Civil Code Section 4607(d). The reference to "children" has been omitted as surplus. See [Section 10](#) (singular includes plural).

Subdivision (b) continues without substantive change and generalizes the fourth sentence of former Civil Code Section 4607(a). See [Section 3160](#) Comment (generalization of provisions to apply both to mediation of stepparent or grandparent visitation and to mediation of contested issues). The phrase "as provided in" has been substituted for "consistent with the considerations required by" for consistency with other sections. See, e.g., [Sections 3020](#) (legislative findings and declarations), 3040 (order of preference in ordering custody). This is not a substantive change. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(2\)](#)

West's Ann. Cal. Fam. Code § 3180, CA FAM § 3180

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

[West's Annotated California Codes](#)

[Family Code \(Refs & Annos\)](#)

[Division 8. Custody of Children \(Refs & Annos\)](#)

[Part 2. Right to Custody of Minor Child \(Refs & Annos\)](#)

[Chapter 11. Mediation of Custody and Visitation Issues \(Refs & Annos\)](#)

[Article 3. Mediation Proceedings \(Refs & Annos\)](#)

West's Ann.Cal.Fam.Code § 3181

§ 3181. Domestic violence history between the parties; separate meetings; intake forms

[Currentness](#)

(a) In a proceeding in which mediation is required pursuant to this chapter, where there has been a history of domestic violence between the parties or where a protective order as defined in [Section 6218](#) is in effect, at the request of the party alleging domestic violence in a written declaration under penalty of perjury or protected by the order, the mediator appointed pursuant to this chapter shall meet with the parties separately and at separate times.

(b) Any intake form that an agency charged with providing family court services requires the parties to complete before the commencement of mediation shall state that, if a party alleging domestic violence in a written declaration under penalty of perjury or a party protected by a protective order so requests, the mediator will meet with the parties separately and at separate times.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3181 restates without substantive change and generalizes former Civil Code Section 4607.2. See [Section 3160](#) Comment (generalization of provisions to apply both to mediation of stepparent or grandparent visitation and to mediation of contested issues). In subdivision (a), the requirement that the allegation of domestic violence be made in a written declaration under penalty of perjury has been added for consistency with subdivision (b). The “notwithstanding” clause in the former section has been omitted as surplus.

Unlike the former section, this section does not contain a reference to the section defining “domestic violence.” This is not a substantive change. See [Sections 6201](#) (application of definitions), 6211 (“domestic violence” defined). The term “protective order” has been substituted for the former references to orders under specific sections formerly in the Civil Code and the Code of Civil Procedure. This is not a substantive change, since [Section 6218](#) defines “protective order” to include these orders.

This section supersedes the last sentence of former Civil Code Section 4607(d) which provided that mediators have the authority to meet with parties separately under the circumstances described in this section. The authority to hold the meetings is inherent in the requirement that the mediator do so. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3181, CA FAM § 3181

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 3. Mediation Proceedings (Refs & Annos)

West's Ann.Cal.Fam.Code § 3182

§ 3182. Authority of mediators; exclusion of counsel; exclusion of domestic violence support person

Currentness

(a) The mediator has authority to exclude counsel from participation in the mediation proceedings pursuant to this chapter if, in the mediator's discretion, exclusion of counsel is appropriate or necessary.

(b) The mediator has authority to exclude a domestic violence support person from a mediation proceeding as provided in [Section 6303](#).

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Subdivision (a) of Section 3182 restates without substantive change the first sentence of former Civil Code Section 4351.5(e) and the first sentence of former Civil Code Section 4607(d).

Subdivision (b) is new and is added to provide a reference to the rule regarding exclusion of a domestic violence support person. This is not a substantive change. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3182, CA FAM § 3182

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 3. Mediation Proceedings (Refs & Annos)

West's Ann.Cal.Fam.Code § 3183

§ 3183. Child custody recommending counseling; written report provided to parties and counsel; investigation when agreement not reached; restraining order to protect child well-being

Effective: January 1, 2011

Currentness

(a) Except as provided in [Section 3188](#), the mediator may, consistent with local court rules, submit a recommendation to the court as to the custody of or visitation with the child, if the mediator has first provided the parties and their attorneys, including counsel for any minor children, with the recommendations in writing in advance of the hearing. The court shall make an inquiry at the hearing as to whether the parties and their attorneys have received the recommendations in writing. If the mediator is authorized to submit a recommendation to the court pursuant to this subdivision, the mediation and recommendation process shall be referred to as "child custody recommending counseling" and the mediator shall be referred to as a "child custody recommending counselor." Mediators who make those recommendations are considered mediators for purposes of Chapter 11 (commencing with [Section 3160](#)), and shall be subject to all requirements for mediators for all purposes under this code and the California Rules of Court. On and after January 1, 2012, all court communications and information regarding the child custody recommending counseling process shall reflect the change in the name of the process and the name of the providers.

(b) If the parties have not reached agreement as a result of the mediation proceedings, the mediator may recommend to the court that an investigation be conducted pursuant to Chapter 6 (commencing with [Section 3110](#)) or that other services be offered to assist the parties to effect a resolution of the controversy before a hearing on the issues.

(c) In appropriate cases, the mediator may recommend that restraining orders be issued, pending determination of the controversy, to protect the well-being of the child involved in the controversy.

Credits

(Added by Stats.1993, c. 219 (A.B.1500), § 116.87. Amended by Stats.1996, c. 761 (S.B.1995), § 6; Stats.2002, c. 1077 (S.B.174), § 2; Stats.2010, c. 352 (A.B.939), § 16.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3183 continues without substantive change the first three sentences of former Civil Code Section 4351.5(f) and the first three sentences of former Civil Code Section 4607(e). The word "child" has been substituted for "children." This is not a substantive change. See [Section 10](#) (singular includes plural).

The provisions in subdivision (b) that the mediator may recommend to the court that the investigation be conducted “pursuant to Chapter 6 (commencing with [Section 3110](#))” and that “other action be taken” to assist the parties to effect a resolution of the controversy have been generalized. The provision in subdivision (c) that restraining orders (rather than “mutual” restraining orders) may be issued has been generalized. Each of these provisions formerly applied only to mediation in contested custody or visitation proceedings pursuant to former Civil Code Section 4607. See [Section 3160](#) Comment (generalization of provisions to apply both to mediation of stepparent or grandparent visitation and to mediation of contested issues). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (2)

West's Ann. Cal. Fam. Code § 3183, CA FAM § 3183

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 3. Mediation Proceedings (Refs & Annos)

West's Ann.Cal.Fam.Code § 3184

§ 3184. Appointment of counsel to represent minor child; recommendations

Effective: January 1, 2003

Currentness

Except as provided in [Section 3188](#), nothing in this chapter prohibits the mediator from recommending to the court that counsel be appointed, pursuant to Chapter 10 (commencing with [Section 3150](#)), to represent the minor child. In making this recommendation, the mediator shall inform the court of the reasons why it would be in the best interest of the minor child to have counsel appointed.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87](#). Amended by [Stats.2002, c. 1077 \(S.B.174\), § 3.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3184 continues without substantive change and generalizes former Civil Code Section 4607(f). The reference to "children" has been omitted as surplus. See [Section 10](#) (singular includes plural). See [Section 3160](#) Comment (generalization of provisions to apply both to mediation of stepparent or grandparent visitation and to mediation of contested issues). See also [Section 3011](#) (factors to be considered in determining best interest of child). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3184, CA FAM § 3184

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 3. Mediation Proceedings (Refs & Annos)

West's Ann.Cal.Fam.Code § 3185

§ 3185. Failure to reach mediation agreement; visitation rights hearing

Currentness

(a) If issues that may be resolved by agreement pursuant to [Section 3178](#) are not resolved by an agreement of all the parties who participate in mediation, the mediator shall inform the court in writing and the court shall set the matter for hearing on the unresolved issues.

(b) Where a stepparent or grandparent requests visitation, each natural or adoptive parent and the stepparent or grandparent shall be given an opportunity to appear and be heard on the issue of visitation.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.87.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Subdivision (a) of Section 3185 restates without substantive change and generalizes the first sentence of former Civil Code Section 4351.5(h). Subdivision (b) restates the last sentence of former Civil Code Section 4351.5 (h) without substantive change. See [Section 3160](#) Comment (generalization of provisions to apply both to mediation of stepparent or grandparent visitation and to mediation of contested issues). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3185, CA FAM § 3185

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 3. Mediation Proceedings (Refs & Annos)

West's Ann.Cal.Fam.Code § 3186

§ 3186. Report of agreement; confirmation or incorporation of agreement in order

Currentness

(a) An agreement reached by the parties as a result of mediation shall be reported to counsel for the parties by the mediator on the day set for mediation or as soon thereafter as practical, but before the agreement is reported to the court.

(b) An agreement may not be confirmed or otherwise incorporated in an order unless each party, in person or by counsel of record, has affirmed and assented to the agreement in open court or by written stipulation.

(c) An agreement may be confirmed or otherwise incorporated in an order if a party fails to appear at a noticed hearing on the issue involved in the agreement.

Credits

(Added by Stats.1993, c. 219 (A.B.1500), § 116.87.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3186 continues without substantive change the fourth, sixth, and seventh sentences of former Civil Code Section 4351.5(f) and the fourth, sixth, and seventh sentences of former Civil Code Section 4607(e). In subdivision (b), a reference to "may not" has been substituted for the former reference to "[n]o agreement shall." This is not a substantive change. See [Section 12](#) (shall not and may not are prohibitory). See also [Section 1819](#) (destruction of records of child custody or visitation mediation). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3186, CA FAM § 3186

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 11. Mediation of Custody and Visitation Issues (Refs & Annos)

Article 3. Mediation Proceedings (Refs & Annos)

West's Ann.Cal.Fam.Code § 3188

§ 3188. Confidential mediation program

Effective: January 1, 2013

Currentness

(a) Any court selected by the Judicial Council under subdivision (c) may voluntarily adopt a confidential mediation program that provides for all of the following:

(1) The mediator may not make a recommendation as to custody or visitation to anyone other than the disputing parties, except as otherwise provided in this section.

(2) If total or partial agreement is reached in mediation, the mediator may report this fact to the court. If both parties consent in writing, where there is a partial agreement, the mediator may report to the court a description of the issues still in dispute, without specific reference to either party.

(3) In making the recommendation described in [Section 3184](#), the mediator may not inform the court of the reasons why it would be in the best interest of the minor child to have counsel appointed.

(4) If the parties have not reached agreement as a result of the initial mediation, this section does not prohibit the court from requiring subsequent mediation that may result in a recommendation as to custody or visitation with the child if the subsequent mediation is conducted by a different mediator with no prior involvement with the case or knowledge of any communications, as defined in [Section 1040 of the Evidence Code](#), with respect to the initial mediation. The court, however, shall inform the parties that the mediator will make a recommendation to the court regarding custody or visitation in the event that the parties cannot reach agreement on these issues.

(5) If an initial screening or intake process indicates that the case involves serious safety risks to the child, such as domestic violence, sexual abuse, or serious substance abuse, the mediator may provide an initial emergency assessment service that includes a recommendation to the court concerning temporary custody or visitation orders in order to expeditiously address those safety issues.

(b) This section shall become operative upon the appropriation of funds in the annual Budget Act sufficient to implement this section.

(c) This section shall apply only in four or more superior courts selected by the Judicial Council that currently allow a mediator to make custody recommendations to the court and have more than 1,000 family law case filings per year. The Judicial Council may also make this section applicable to additional superior courts that have fewer than 1,000 family law case filings per year.

Credits

(Added by [Stats.2002, c. 1077 \(S.B.174\), § 4.](#) Amended by [Stats.2012, c. 470 \(A.B.1529\), § 20.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

2012 Amendment

Paragraph (5) of subdivision (a) of Section 3188 is amended to make a technical correction. An erroneous reference to “the court” is replaced with a reference to “the mediator.”

Subdivision (c) of Section 3188 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally [Gov't Code §§ 77000-77655](#)). See, e.g., [Gov't Code § 77001](#) (local trial court management); see also [Fam. Code § 3183\(a\)](#) (authorizing mediator to make recommendations, except as provided in Section 3188, to court consistent with local rules). [39 Cal.L.Rev.Comm. Reports 157 (2009)].

West's Ann. Cal. Fam. Code § 3188, CA FAM § 3188

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 12. Counseling of Parents and Child

West's Ann.Cal.Fam.Code § 3190

§ 3190. Court order to participate in counseling; costs

Currentness

(a) The court may require parents or any other party involved in a custody or visitation dispute, and the minor child, to participate in outpatient counseling with a licensed mental health professional, or through other community programs and services that provide appropriate counseling, including, but not limited to, mental health or substance abuse services, for not more than one year, provided that the program selected has counseling available for the designated period of time, if the court finds both of the following:

(1) The dispute between the parents, between the parent or parents and the child, between the parent or parents and another party seeking custody or visitation rights with the child, or between a party seeking custody or visitation rights and the child, poses a substantial danger to the best interest of the child.

(2) The counseling is in the best interest of the child.

(b) In determining whether a dispute, as described in paragraph (1) of subdivision (a), poses a substantial danger to the best interest of the child, the court shall consider, in addition to any other factors the court determines relevant, any history of domestic violence, as defined in [Section 6211](#), within the past five years between the parents, between the parent or parents and the child, between the parent or parents and another party seeking custody or visitation rights with the child, or between a party seeking custody or visitation rights and the child.

(c) Subject to [Section 3192](#), if the court finds that the financial burden created by the order for counseling does not otherwise jeopardize a party's other financial obligations, the court shall fix the cost and shall order the entire cost of the services to be borne by the parties in the proportions the court deems reasonable.

(d) The court, in its finding, shall set forth reasons why it has found both of the following:

(1) The dispute poses a substantial danger to the best interest of the child and the counseling is in the best interest of the child.

(2) The financial burden created by the court order for counseling does not otherwise jeopardize a party's other financial obligations.

(e) The court shall not order the parties to return to court upon the completion of counseling. Any party may file a new order to show cause or motion after counseling has been completed, and the court may again order counseling consistent with this chapter.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 116.90; Stats.1993, c. 301, (A.B.197), § 1; Stats.1993, c. 876 (S.B.1068), § 15.4, eff. Oct. 6, 1993, operative Jan. 1, 1994; Stats.1994, c. 1269 (A.B.2208), § 30; Stats.1998, c. 229 (A.B.1837), § 1.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3190 supersedes the first paragraph of former Civil Code Section 4608.1(a). In subdivision (a), the reference to proceedings “under this part,” meaning the former Family Law Act (former Part 5 (commencing with former Section 4000) of Division 4 of the Civil Code), has been omitted as unnecessary. See [Section 3021](#) (application of part) & Comment. See also [Section 3011](#) (factors to be considered in determining best interest of child). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

1994 Amendment

Subdivision (b) of Section 3190 is amended for consistency with [Section 3192](#) as amended. See [Section 3192](#) Comment. [24 Cal.L.Rev.Comm. Reports 621 (1994)].

Notes of Decisions (7)

West's Ann. Cal. Fam. Code § 3190, CA FAM § 3190

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 12. Counseling of Parents and Child

West's Ann.Cal.Fam.Code § 3191

§ 3191. Goals of outpatient counseling

Currentness

The counseling pursuant to this chapter shall be specifically designed to facilitate communication between the parties regarding their minor child's best interest, to reduce conflict regarding custody or visitation, and to improve the quality of parenting skills of each parent.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 116.91.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3191 continues the last paragraph of former Civil Code Section 4608.1(a) without substantive change. See also [Section 3011](#) (factors to be considered in determining best interest of child). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3191, CA FAM § 3191

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Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 12. Counseling of Parents and Child

West's Ann.Cal.Fam.Code § 3192

§ 3192. Separate counseling sessions; history of abuse in family relationship

Currentness

In a proceeding in which counseling is ordered pursuant to this chapter, where there has been a history of abuse by either parent against the child or by one parent against the other parent and a protective order as defined in [Section 6218](#) is in effect, the court may order the parties to participate in counseling separately and at separate times. Each party shall bear the cost of his or her own counseling separately, unless good cause is shown for a different apportionment. The costs associated with a minor child participating in counseling shall be apportioned in accordance with [Section 4062](#).

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 116.92; Stats.1994, c. 1269 (A.B.2208), § 31.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3192 continues former Civil Code Section 4608.1(b) without substantive change. Unlike the former section, this section does not contain a reference to the section defining "domestic violence." This is not a substantive change. See [Sections 6201](#) (application of definitions), 6211 ("domestic violence" defined). The phrase "protective order" has been substituted for the references to orders under specific former sections in the Civil Code and the Code of Civil Procedure. This is not a substantive change, since [Section 6218](#) defines "protective order" to include these orders. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

1994 Amendment

Section 3192 is amended to conform to the substance of 1993 Cal. Stat. ch. 301, § 1 (AB 197), which was unintentionally chaptered out by 1993 Cal. Stat. ch. 876, § 15.4 (SB 1068). [24 Cal.L.Rev.Comm. Reports 621 (1994)].

West's Ann. Cal. Fam. Code § 3192, CA FAM § 3192

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

West's Annotated California Codes

Family Code

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 13. Supervised Visitation and Exchange Services, Education, and Counseling

West's Ann.Cal.Fam.Code D. 8, Pt. 2, Ch. 13, Refs & Annos

Currentness

Editors' Notes

GENERAL NOTES

2004 Main Volume

<Chapter 13, added as "Supervised Visitation" by Stats.1996, c. 387 (S.B.1643), § 1, was amended by Stats.1999, c. 1004 (A.B.673), § 1, to read as now appearing.>

West's Ann. Cal. Fam. Code D. 8, Pt. 2, Ch. 13, Refs & Annos, CA FAM D. 8, Pt. 2, Ch. 13, Refs & Annos
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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 13. Supervised Visitation and Exchange Services, Education, and Counseling (Refs & Annos)

West's Ann.Cal.Fam.Code § 3200

§ 3200. Supervised visitation provider standards; guidelines

Effective: January 1, 2005

Currentness

The Judicial Council shall develop standards for supervised visitation providers in accordance with the guidelines set forth in this section. For the purposes of the development of these standards, the term "provider" shall include any individual who functions as a visitation monitor, as well as supervised visitation centers. Provisions shall be made within the standards to allow for the diversity of supervised visitation providers.

(a) When developing standards, the Judicial Council shall consider all of the following issues:

(1) The provider's qualifications, experience, and education.

(2) Safety and security procedures, including ratios of children per supervisor.

(3) Any conflict of interest.

(4) Maintenance and disclosure of records, including confidentiality policies.

(5) Procedures for screening, delineation of terms and conditions, and termination of supervised visitation services.

(6) Procedures for emergency or extenuating situations.

(7) Orientation to and guidelines for cases in which there are allegations of domestic violence, child abuse, substance abuse, or special circumstances.

(8) The legal obligations and responsibilities of supervisors.

(b) The Judicial Council shall consult with visitation centers, mothers' groups, fathers' groups, judges, the State Bar of California, children's advocacy groups, domestic violence prevention groups, Family Court Services, and other groups it regards as necessary in connection with these standards.

(c) It is the intent of the Legislature that the safety of children, adults, and visitation supervisors be a precondition to providing visitation services. Once safety is assured, the best interest of the child is the paramount consideration at all stages and particularly in deciding the manner in which supervision is provided.

Credits

(Added by [Stats.1996, c. 387 \(S.B.1643\), § 1.](#) Amended by [Stats.2004, c. 193 \(S.B.111\), § 17.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

2004 Amendment

Section 3200 is amended to delete reference to an obsolete reporting requirement. The required report was to be completed by April 1, 1997. [33 Cal.L.Rev.Comm. Reports 302 (2004)].

West's Ann. Cal. Fam. Code § 3200, CA FAM § 3200

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 13. Supervised Visitation and Exchange Services, Education, and Counseling (Refs & Annos)

West's Ann.Cal.Fam.Code § 3200.5

§ 3200.5. Standards for professional or nonprofessional supervised visitation providers; cases of domestic violence, child abuse, or neglect; court to determine provider based on best interest of child; definitions; training; child to provider ratio; duties of professional providers

Effective: January 1, 2013

Currentness

(a) Any standards for supervised visitation providers adopted by the Judicial Council pursuant to [Section 3200](#) shall conform to this section. A provider, as described in [Section 3200](#), shall be a professional provider or nonprofessional provider.

(b) In any case in which the court has determined that there is domestic violence, child abuse or neglect, as defined in [Section 11165.6 of the Penal Code](#), and the court determines supervision is necessary, the court shall consider whether to use a professional or nonprofessional provider based upon the child's best interest.

(c) For the purposes of this section, the following definitions apply:

(1) "Nonprofessional provider" means any person who is not paid for providing supervised visitation services. Unless otherwise ordered by the court or stipulated by the parties, the nonprofessional provider shall:

(A) Have no record of a conviction for child molestation, child abuse, or other crimes against a person.

(B) Have proof of automobile insurance if transporting the child.

(C) Have no current or past court order in which the provider is the person being supervised.

(D) Agree to adhere to and enforce the court order regarding supervised visitation.

(2) "Professional provider" means any person paid for providing supervised visitation services, or an independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency. The professional provider shall:

(A) Be at least 21 years of age.

- (B) Have no record of a conviction for driving under the influence (DUI) within the last five years.
- (C) Not have been on probation or parole for the last 10 years.
- (D) Have no record of a conviction for child molestation, child abuse, or other crimes against a person.
- (E) Have proof of automobile insurance if transporting the child.
- (F) Have no civil, criminal, or juvenile restraining orders within the last 10 years.
- (G) Have no current or past court order in which the provider is the person being supervised.
- (H) Be able to speak the language of the party being supervised and of the child, or the provider must provide a neutral interpreter over 18 years of age who is able to do so.
- (I) Agree to adhere to and enforce the court order regarding supervised visitation.
- (J) Meet the training requirements set forth in subdivision (d).
 - (d)(1) Professional providers shall have received 24 hours of training that includes training in the following subjects:
 - (A) The role of a professional provider.
 - (B) Child abuse reporting laws.
 - (C) Recordkeeping procedures.
 - (D) Screening, monitoring, and termination of visitation.
 - (E) Developmental needs of children.
 - (F) Legal responsibilities and obligations of a provider.
 - (G) Cultural sensitivity.
 - (H) Conflicts of interest.

(I) Confidentiality.

(J) Issues relating to substance abuse, child abuse, sexual abuse, and domestic violence.

(K) Basic knowledge of family and juvenile law.

(2) Professional providers shall sign a declaration or any Judicial Council form that they meet the training and qualifications of a provider.

(e) The ratio of children to a professional provider shall be contingent on:

(1) The degree of risk factors present in each case.

(2) The nature of supervision required in each case.

(3) The number and ages of the children to be supervised during a visit.

(4) The number of people visiting the child during the visit.

(5) The duration and location of the visit.

(6) The experience of the provider.

(f) Professional providers of supervised visitation shall:

(1) Advise the parties before commencement of supervised visitation that no confidential privilege exists.

(2) Report suspected child abuse to the appropriate agency, as provided by law, and inform the parties of the provider's obligation to make those reports.

(3) Suspend or terminate visitation under subdivision (h).

(g) Professional providers shall:

(1) Prepare a written contract to be signed by the parties before commencement of the supervised visitation. The contract should inform each party of the terms and conditions of supervised visitation.

(2) Review custody and visitation orders relevant to the supervised visitation.

(3) Keep a record for each case, including, at least, all of the following:

(A) A written record of each contact and visit.

(B) Who attended the visit.

(C) Any failure to comply with the terms and conditions of the visitation.

(D) Any incidence of abuse, as required by law.

(h)(1) Each provider shall make every reasonable effort to provide a safe visit for the child and the noncustodial party.

(2) If a provider determines that the rules of the visit have been violated, the child has become acutely distressed, or the safety of the child or the provider is at risk, the visit may be temporarily interrupted, rescheduled at a later date, or terminated.

(3) All interruptions or terminations of visits shall be recorded in the case file.

(4) All providers shall advise both parties of the reasons for the interruption or termination of a visit.

(i) A professional provider shall state the reasons for temporary suspension or termination of supervised visitation in writing and shall provide the written statement to both parties, their attorneys, the attorney for the child, and the court.

Credits

(Added by [Stats.2012, c. 692 \(A.B.1674\), § 1.](#))

West's Ann. Cal. Fam. Code § 3200.5, CA FAM § 3200.5

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 13. Supervised Visitation and Exchange Services, Education, and Counseling (Refs & Annos)

West's Ann.Cal.Fam.Code § 3201

§ 3201. Administration of supervised visitation

Effective: January 1, 2000

Currentness

<Section as added by [Stats.1999, c. 985 \(S.B.792\), § 2.](#) See, also, another section of the same number, added by [Stats.1999, c. 1004 \(A.B.673\), § 2.](#)>

Any supervised visitation maintained or imposed by the court shall be administered in accordance with Section 26.2 of the California Standards of Judicial Administration recommended by the Judicial Council.

Credits

(Added by [Stats.1999, c. 985 \(S.B.792\), § 2.](#))

West's Ann. Cal. Fam. Code § 3201, CA FAM § 3201

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 13. Supervised Visitation and Exchange Services, Education, and Counseling (Refs & Annos)

West's Ann.Cal.Fam.Code § 3201

§ 3201. Administration of programs; education about protecting children during family disruption

Effective: January 1, 2000

Currentness

<Section as added by [Stats.1999, c. 1004 \(A.B.673\), § 2.](#) See, also, another section of the same number, added by [Stats.1999, c. 985 \(S.B.792\), § 2.](#)>

(a) The programs described in this chapter shall be administered by the family law division of the superior court in the county.

(b) For purposes of this chapter, “education about protecting children during family disruption” includes education on parenting skills and the impact of parental conflict on children, how to put a parenting agreement into effect, and the responsibility of both parents to comply with custody and visitation orders.

Credits

(Added by [Stats.1999, c. 1004 \(A.B.673\), § 2.](#))

West's Ann. Cal. Fam. Code § 3201, CA FAM § 3201

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 13. Supervised Visitation and Exchange Services, Education, and Counseling (Refs & Annos)

West's Ann.Cal.Fam.Code § 3202

§ 3202. Uniform Standards of Practice for Providers of Supervised Visitation; eligible providers

Effective: January 1, 2012

Currentness

(a) All supervised visitation and exchange programs funded pursuant to this chapter shall comply with all requirements of the Uniform Standards of Practice for Providers of Supervised Visitation set forth in Section 26.2 of the Standards of Judicial Administration as amended. The family law division of the superior court may contract with eligible providers of supervised visitation and exchange services, education, and group counseling to provide services under this chapter.

(b) As used in this section, "eligible provider" means:

(1) For providers of supervised visitation and exchange services, a local public agency or nonprofit entity that satisfies the Uniform Standards of Practice for Providers of Supervised Visitation.

(2) For providers of group counseling, a professional licensed to practice psychotherapy in this state, including, but not limited to, a licensed psychiatrist, licensed psychologist, licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor; or a mental health intern working under the direct supervision of a professional licensed to practice psychotherapy.

(3) For providers of education, a professional with a bachelor's or master's degree in human behavior, child development, psychology, counseling, family-life education, or a related field, having specific training in issues relating to child and family development, substance abuse, child abuse, domestic violence, effective parenting, and the impact of divorce and interparental conflict on children; or an intern working under the supervision of that professional.

Credits

(Added by Stats.1999, c. 1004 (A.B.673), § 3. Amended by Stats.2011, c. 381 (S.B.146), § 24.)

West's Ann. Cal. Fam. Code § 3202, CA FAM § 3202

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 13. Supervised Visitation and Exchange Services, Education, and Counseling (Refs & Annos)

West's Ann.Cal.Fam.Code § 3203

§ 3203. Establishment and administration of programs by family law division of county superior courts

Effective: January 1, 2000

Currentness

Subject to the availability of federal funding for the purposes of this chapter, the family law division of the superior court in each county may establish and administer a supervised visitation and exchange program, programs for education about protecting children during family disruption, and group counseling programs for parents and children under this chapter. The programs shall allow parties and children to participate in supervised visitation between a custodial party and a noncustodial party or joint custodians, and to participate in the education and group counseling programs, irrespective of whether the parties are or are not married to each other or are currently living separately and apart on a permanent or temporary basis.

Credits

(Added by [Stats.1999, c. 1004 \(A.B.673\), § 4.](#))

West's Ann. Cal. Fam. Code § 3203, CA FAM § 3203

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 13. Supervised Visitation and Exchange Services, Education, and Counseling (Refs & Annos)

West's Ann.Cal.Fam.Code § 3204

§ 3204. Judicial Council; application for grants from the federal
Administration for Children and Families; legislative intent; reports

Effective: January 1, 2008

Currentness

(a) The Judicial Council shall annually submit an application to the federal Administration for Children and Families, pursuant to Section 669B of the “1996 Federal Personal Responsibility and Work Opportunity Recovery Act” (PRWORA), for a grant to fund child custody and visitation programs pursuant to this chapter.

The Judicial Council shall be charged with the administration of the grant funds.

(b)(1) It is the intention of the Legislature that, effective October 1, 2000, the grant funds described in subdivision (a) shall be used to fund the following three types of programs: supervised visitation and exchange services, education about protecting children during family disruption, and group counseling for parents and children, as set forth in this chapter. Contracts shall follow a standard request for proposal procedure, that may include multiple year funding. Requests for proposals shall meet all state and federal requirements for receiving access and visitation grant funds.

(2) The grant funds shall be awarded with the intent of approving as many requests for proposals as possible while assuring that each approved proposal would provide beneficial services and satisfy the overall goals of the program under this chapter. The Judicial Council shall determine the final number and amount of grants. Requests for proposals shall be evaluated based on the following criteria:

(A) Availability of services to a broad population of parties.

(B) The ability to expand existing services.

(C) Coordination with other community services.

(D) The hours of service delivery.

(E) The number of counties or regions participating.

(F) Overall cost-effectiveness.

(G) The purpose of the program to promote and encourage healthy parent and child relationships between noncustodial parents and their children, while ensuring the health, safety, and welfare of the children.

(3) Special consideration for grant funds shall be given to proposals that coordinate supervised visitation and exchange services, education, and group counseling with existing court-based programs and services.

(c) The family law division of the superior court in each county shall approve sliding scale fees that are based on the ability to pay for all parties, including low-income families, participating in a supervised visitation and exchange, education, and group counseling programs under this chapter.

(d) The Judicial Council shall, on March 1, 2002, and on the first day of March of each subsequent even-numbered year, report to the Legislature on the programs funded pursuant to this chapter and whether and to what extent those programs are achieving the goal of promoting and encouraging healthy parent and child relationships between noncustodial or joint custodial parents and their children while ensuring the health, safety, and welfare of children, and the other goals described in this chapter.

Credits

(Added by [Stats.1999, c. 1004 \(A.B.673\), § 5.](#) Amended by [Stats.2007, c. 738 \(A.B.1248\), § 13.](#))

West's Ann. Cal. Fam. Code § 3204, CA FAM § 3204

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 1. Definitions and General Provisions (Refs & Annos)

Chapter 1. Definitions

West's Ann.Cal.Fam.Code § 3002

§ 3002. Joint custody

Currentness

“Joint custody” means joint physical custody and joint legal custody.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3002 continues former Civil Code Section 4600.5(d)(1) without change. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3002, CA FAM § 3002

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 1. Definitions and General Provisions (Refs & Annos)

Chapter 1. Definitions

West's Ann.Cal.Fam.Code § 3003

§ 3003. Joint legal custody

Currentness

"Joint legal custody" means that both parents shall share the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3003 continues former Civil Code Section 4600.5(d)(5) without change. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (1)

West's Ann. Cal. Fam. Code § 3003, CA FAM § 3003

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 1. Definitions and General Provisions (Refs & Annos)

Chapter 1. Definitions

West's Ann.Cal.Fam.Code § 3004

§ 3004. Joint physical custody

Currentness

“Joint physical custody” means that each of the parents shall have significant periods of physical custody. Joint physical custody shall be shared by the parents in such a way so as to assure a child of frequent and continuing contact with both parents, subject to [Sections 3011](#) and [3020](#).

Credits

([Stats.1992, c. 162 \(A.B.2650\)](#), § 10, operative Jan. 1, 1994. Amended by [Stats.1997, c. 849 \(A.B.200\)](#), § 1.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3004 continues former Civil Code Section 4600.5(d)(3) without change. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (11)

West's Ann. Cal. Fam. Code § 3004, CA FAM § 3004

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 1. Definitions and General Provisions (Refs & Annos)

Chapter 1. Definitions

West's Ann.Cal.Fam.Code § 3006

§ 3006. Sole legal custody

Currentness

“Sole legal custody” means that one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3006 continues former Civil Code Section 4600.5(d)(4) without change. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (4)

West's Ann. Cal. Fam. Code § 3006, CA FAM § 3006

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 1. Definitions and General Provisions (Refs & Annos)

Chapter 1. Definitions

West's Ann.Cal.Fam.Code § 3007

§ 3007. Sole physical custody

Currentness

“Sole physical custody” means that a child shall reside with and be under the supervision of one parent, subject to the power of the court to order visitation.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3007 continues former Civil Code Section 4600.5(d)(2) without change. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (7)

West's Ann. Cal. Fam. Code § 3007, CA FAM § 3007

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 1. Definitions and General Provisions (Refs & Annos)

Chapter 2. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3010

§ 3010. Custody of unemancipated minor children

Currentness

(a) The mother of an unemancipated minor child and the father, if presumed to be the father under [Section 7611](#), are equally entitled to the custody of the child.

(b) If one parent is dead, is unable or refuses to take custody, or has abandoned the child, the other parent is entitled to custody of the child.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 115.5.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3010 restates the general right to custody in former Civil Code Section 197 without substantive change. The word “unemancipated” has been substituted for “unmarried.” This is not a substantive change, but resolves a conflict with the rules governing emancipation of minors. See [Section 7002](#) (conditions of emancipation).

The abandonment standard in former Civil Code Section 197, which referred to abandonment of the family, has been revised in subdivision (b) to refer to abandonment of the child. This is not a substantive change, but recognizes that where child custody is the issue, abandonment of the child is the relevant consideration. This change is also made for general consistency with judicial standards stated elsewhere concerning parental rights and child custody. See [Sections 3011](#) (factors considered in determining best interest of child), 3040 (preference in ordering custody), 7822 (proceeding to declare child free from parental custody and control on ground of abandonment); see also *In re Guardianship of Schwartz*, 171 Cal. 633, 635, 154 P. 304 (1915); *Guardianship of Case*, 57 Cal.App.2d 844, 848, 135 P.2d 681 (1943).

For additional rights dependent on the right to custody, see Part 1 (commencing with [Section 7500](#)) of Division 12. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (70)

West's Ann. Cal. Fam. Code § 3010, CA FAM § 3010

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 1. Definitions and General Provisions (Refs & Annos)

Chapter 2. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3011

§ 3011. Best interest of child; considerations

Effective: January 1, 2013

Currentness

In making a determination of the best interest of the child in a proceeding described in [Section 3021](#), the court shall, among any other factors it finds relevant, consider all of the following:

(a) The health, safety, and welfare of the child.

(b) Any history of abuse by one parent or any other person seeking custody against any of the following:

(1) Any child to whom he or she is related by blood or affinity or with whom he or she has had a caretaking relationship, no matter how temporary.

(2) The other parent.

(3) A parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship.

As a prerequisite to considering allegations of abuse, the court may require substantial independent corroboration, including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence. As used in this subdivision, “abuse against a child” means “child abuse” as defined in [Section 11165.6 of the Penal Code](#) and abuse against any of the other persons described in paragraph (2) or (3) means “abuse” as defined in [Section 6203](#) of this code.

(c) The nature and amount of contact with both parents, except as provided in [Section 3046](#).

(d) The habitual or continual illegal use of controlled substances, the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances by either parent. Before considering these allegations, the court may first require independent corroboration, including, but not limited to, written reports from law enforcement agencies, courts, probation departments, social welfare agencies, medical facilities, rehabilitation facilities, or other public agencies or nonprofit organizations providing drug and alcohol abuse services. As used in this subdivision, “controlled substances” has the same

meaning as defined in the California Uniform Controlled Substances Act, Division 10 (commencing with [Section 11000](#)) of the [Health and Safety Code](#).

(e)(1) Where allegations about a parent pursuant to subdivision (b) or (d) have been brought to the attention of the court in the current proceeding, and the court makes an order for sole or joint custody to that parent, the court shall state its reasons in writing or on the record. In these circumstances, the court shall ensure that any order regarding custody or visitation is specific as to time, day, place, and manner of transfer of the child as set forth in [subdivision \(b\) of Section 6323](#).

(2) The provisions of this subdivision shall not apply if the parties stipulate in writing or on the record regarding custody or visitation.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 115.5](#). Amended by [Stats.1996, c. 835 \(A.B.2474\), § 1](#); [Stats.1996, c. 836 \(S.B.384\), § 1.5](#); [Stats.1997, c. 849 \(A.B.200\), § 2](#); [Stats.1999, c. 980 \(A.B.1671\), § 4](#); [Stats.2012, c. 258 \(A.B.2365\), § 1](#).)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3011 continues former Civil Code Section 4608 without substantive change. The reference to “a proceeding described in [Section 3021](#)” has been substituted for the former reference to a “proceeding under this title,” which referred to the custody title of the former Family Law Act (former Title 4 (commencing with former Civil Code Section 4600) of Part 5 of Division 4 of the Civil Code). See [Section 3021](#) (application of custody provisions) & Comment.

For provisions adopting this section by reference, see [Sections 3020](#) (legislative findings and declarations), 3040 (order of preference in ordering custody), 3080 (presumption for joint custody where parents agree to joint custody), 3081 (joint custody order absent agreement of parents).

For provisions in this division referring to the best interest of the child, see [Sections 3031](#) (custody order not to be inconsistent with civil or criminal protective orders), 3041 (additional requirements of custody award to nonparent), 3082 (statement by court of reasons for grant or denial of joint custody request), 3087 (modification or termination of joint custody order), 3100 (visitation rights of a parent), 3101 (visitation rights of stepparent), 3102 (visitation rights of grandparent and other relatives where parent of unmarried minor child is deceased), 3103 (visitation rights of grandparent in proceeding described in [Section 3021](#)), 3114 (recommendation for appointment of counsel for minor child), 3120 (independent action for exclusive custody), 3133 (temporary custody order upon request of district attorney), 3150 (appointment of private counsel to represent child in custody or visitation proceeding), 3161 (purpose of mediation), 3162 (uniform standards of practice for mediation), 3184 (recommendations that counsel be appointed for minor child), 3190 (order requiring counseling), 3191 (purpose of counseling), 3403 (jurisdictional requirements). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (36)

West's Ann. Cal. Fam. Code § 3011, CA FAM § 3011

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West's Annotated California Codes

Family Code

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 1. General Provisions

West's Ann.Cal.Fam.Code D. 8, Pt. 2, Ch. 1, Refs & Annos

[Currentness](#)

West's Ann. Cal. Fam. Code D. 8, Pt. 2, Ch. 1, Refs & Annos, CA FAM D. 8, Pt. 2, Ch. 1, Refs & Annos

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3020

§ 3020. Legislative findings and declarations; health, safety, and welfare of children; continuing contact with parents

Effective: January 1, 2000

Currentness

(a) The Legislature finds and declares that it is the public policy of this state to assure that the health, safety, and welfare of children shall be the court's primary concern in determining the best interest of children when making any orders regarding the physical or legal custody or visitation of children. The Legislature further finds and declares that the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the child.

(b) The Legislature finds and declares that it is the public policy of this state to assure that children have frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, or ended their relationship, and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy, except where the contact would not be in the best interest of the child, as provided in [Section 3011](#).

(c) Where the policies set forth in subdivisions (a) and (b) of this section are in conflict, any court's order regarding physical or legal custody or visitation shall be made in a manner that ensures the health, safety, and welfare of the child and the safety of all family members.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 116; Stats.1997, c. 849 (A.B.200), § 3; Stats.1999, c. 980 (A.B.1671), § 5.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3020 continues the first paragraph of former Civil Code Section 4600(a) without substantive change. See also [Sections 2253](#) (determining custody in nullity proceeding), 3021 (application of part). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(10\)](#)

West's Ann. Cal. Fam. Code § 3020, CA FAM § 3020

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3021

§ 3021. Application of part

Effective: January 1, 2001

Currentness

This part applies in any of the following:

(a) A proceeding for dissolution of marriage.

(b) A proceeding for nullity of marriage.

(c) A proceeding for legal separation of the parties.

(d) An action for exclusive custody pursuant to [Section 3120](#).

(e) A proceeding to determine physical or legal custody or for visitation in a proceeding pursuant to the Domestic Violence Prevention Act (Division 10 (commencing with [Section 6200](#))).

In an action under [Section 6323](#), nothing in this subdivision shall be construed to authorize physical or legal custody, or visitation rights, to be granted to any party to a Domestic Violence Prevention Act proceeding who has not established a parent and child relationship pursuant to [paragraph \(2\) of subdivision \(a\) of Section 6323](#).

(f) A proceeding to determine physical or legal custody or visitation in an action pursuant to the Uniform Parentage Act (Part 3 (commencing with [Section 7600](#)) of Division 12).

(g) A proceeding to determine physical or legal custody or visitation in an action brought by the district attorney pursuant to [Section 17404](#).

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.11](#). Amended by [Stats.1996, c. 1075 \(S.B.1444\), § 9](#); [Stats.1997, c. 396 \(S.B.564\), § 1](#); [Stats.1999, c. 980 \(A.B.1671\), § 6](#); [Stats.2000, c. 135 \(A.B.2539\), § 58](#).)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3021 is a new provision that generalizes the parts of former Civil Code Sections 4351.5, 4600.1, 4600.5, 4602, 4606, 4608.1, 4609, and 4611 stating the scope of application of the former sections. The former provisions applied to proceedings under the former Family Law Act (former Part 5 (commencing with former Section 4000) of Division 4 of the Civil Code), which included proceedings for dissolution of marriage, nullity of marriage, and legal separation of the parties, and actions for exclusive custody.

This section expands the application of this part to proceedings in which custody or visitation is determined in an action pursuant to the Domestic Violence Prevention Act or the Uniform Parentage Act. Application of this part to these acts provides a complete set of rules where custody or visitation is determined in proceedings pursuant to these acts, as well as providing for related matters such as investigations, appointment of counsel to represent the child, mediation, and counseling.

See also [Prob. Code § 1514](#) ([Fam. Code §§ 3040-3043](#) applicable in proceeding to establish guardianship of person). For provisions excluding application of this part, see [Section 7807](#) (specific provisions not applicable in proceeding to terminate parental rights pursuant to Uniform Parentage Act); [Welf. & Inst. Code § 366.26](#) (specific provisions not applicable to dependency proceedings). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(10\)](#)

West's Ann. Cal. Fam. Code § 3021, CA FAM § 3021

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3022

§ 3022. Order for custody

Currentness

The court may, during the pendency of a proceeding or at any time thereafter, make an order for the custody of a child during minority that seems necessary or proper.

Credits

(Formerly § 3021, enacted by [Stats.1992, c. 162 \(A.B.2650\), § 10](#), operative Jan. 1, 1994. Renumbered § 3022 and amended by [Stats.1993, c. 219 \(A.B.1500\), § 116.12](#).)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3022 continues without substantive change the first sentence of the second paragraph of former Civil Code Section 4600(a). The former reference to “any proceeding where there is at issue the custody of a minor child” has been omitted. See [Section 3021](#) (application of part). As to the court's jurisdiction, see [Sections 3400-3425](#) (Uniform Child Custody Jurisdiction Act). See also [Code Civ. Proc. § 917.7](#) (order not automatically stayed by appeal). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (4)

West's Ann. Cal. Fam. Code § 3022, CA FAM § 3022

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3022.3

§ 3022.3. Statement of decision

Effective: January 1, 2007

Currentness

Upon the trial of a question of fact in a proceeding to determine the custody of a minor child, the court shall, upon the request of either party, issue a statement of the decision explaining the factual and legal basis for its decision pursuant to [Section 632 of the Code of Civil Procedure](#).

Credits

(Added by [Stats.2006, c. 496 \(A.B.402\), § 3.](#))

West's Ann. Cal. Fam. Code § 3022.3, CA FAM § 3022.3

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3022.5

§ 3022.5. Motion by parent for reconsideration of child custody order after conviction of spouse for false accusation of child abuse against parent

Currentness

A motion by a parent for reconsideration of an existing child custody order shall be granted if the motion is based on the fact that the other parent was convicted of a crime in connection with falsely accusing the moving parent of child abuse.

Credits

(Added by [Stats.1995, c. 406 \(S.B.558\), § 1.](#))

West's Ann. Cal. Fam. Code § 3022.5, CA FAM § 3022.5

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3023

§ 3023. Sole contested issue or order for separate trial on issue; preference for trial date

Currentness

(a) If custody of a minor child is the sole contested issue, the case shall be given preference over other civil cases, except matters to which special precedence may be given by law, for assigning a trial date and shall be given an early hearing.

(b) If there is more than one contested issue and one of the issues is the custody of a minor child, the court, as to the issue of custody, shall order a separate trial. The separate trial shall be given preference over other civil cases, except matters to which special precedence may be given by law, for assigning a trial date.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 116.14.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3023 continues former Civil Code Section 4600.6 without substantive change. The former reference to a “contested issue” of custody has been omitted as surplus. See [Section 3021](#) (application of part).

See also [Sections 3041](#) (excluding public from hearing on award of custody to nonparent), 4003 (separate trial on issue of child support). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3023, CA FAM § 3023

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[West's Annotated California Codes](#)

[Family Code \(Refs & Annos\)](#)

[Division 8. Custody of Children \(Refs & Annos\)](#)

[Part 2. Right to Custody of Minor Child \(Refs & Annos\)](#)

[Chapter 1. General Provisions \(Refs & Annos\)](#)

West's Ann.Cal.Fam.Code § 3024

§ 3024. Notice to other parent of change of residence of child

[Currentness](#)

In making an order for custody, if the court does not consider it inappropriate, the court may specify that a parent shall notify the other parent if the parent plans to change the residence of the child for more than 30 days, unless there is prior written agreement to the removal. The notice shall be given before the contemplated move, by mail, return receipt requested, postage prepaid, to the last known address of the parent to be notified. A copy of the notice shall also be sent to that parent's counsel of record. To the extent feasible, the notice shall be provided within a minimum of 45 days before the proposed change of residence so as to allow time for mediation of a new agreement concerning custody. This section does not affect orders made before January 1, 1989.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3024 continues former Civil Code Section 4600.5(m) without substantive change. Although former Civil Code Section 4600.5 related to joint custody, subdivision (m) of that section was not by its terms limited to a joint custody order. Accordingly, Section 3024 applies to any custody order, not only a joint custody order. See also [Section 3131](#) (action by district attorney where child taken or detained in violation of custody order). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(14\)](#)

West's Ann. Cal. Fam. Code § 3024, CA FAM § 3024

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3025

§ 3025. Parental access to records

Currentness

Notwithstanding any other provision of law, access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, shall not be denied to a parent because that parent is not the child's custodial parent.

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3025 continues former Civil Code Section 4600.5(l) without substantive change. Although former Civil Code Section 4600.5 related to joint custody, subdivision (l) of that section was not by its terms limited to a joint custody order. Accordingly, Section 3025 applies whether or not custody is pursuant to a joint custody order. [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (1)

West's Ann. Cal. Fam. Code § 3025, CA FAM § 3025

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3025.5

§ 3025.5. Psychological evaluations of children; confidentiality; exceptions

Effective: January 1, 2013

Currentness

In any proceeding involving child custody or visitation rights, if a report containing psychological evaluations of a child or recommendations regarding custody of, or visitation with, a child is submitted to the court, including, but not limited to, a report created pursuant to Chapter 6 (commencing with [Section 3110](#)) of this part, a recommendation made to the court pursuant to [Section 3183](#), and a written statement of issues and contentions pursuant to [subdivision \(b\) of Section 3151](#), that information shall be contained in a document that shall be placed in the confidential portion of the court file of the proceeding, and may not be disclosed, except to the following persons:

- (a) A party to the proceeding and his or her attorney.
- (b) A federal or state law enforcement officer, judicial officer, court employee, or family court facilitator of the superior court of the county in which the action was filed, or an employee or agent of that facilitator, acting within the scope of his or her duties.
- (c) Counsel appointed for the child pursuant to [Section 3150](#).
- (d) Any other person upon order of the court for good cause.

Credits

(Added by [Stats.2004, c. 102 \(S.B.1284\), § 1](#). Amended by [Stats.2012, c. 470 \(A.B.1529\), § 17.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

2012 Amendment

Subdivision (b) of Section 3025.5 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally [Gov't Code §§ 77000-77655](#)). [39 Cal.L.Rev.Com. Reports 157 (2009)].

West's Ann. Cal. Fam. Code § 3025.5, CA FAM § 3025.5

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3026

§ 3026. Family reunification services

Currentness

Family reunification services shall not be ordered as a part of a child custody or visitation rights proceeding. Nothing in this section affects the applicability of [Section 16507 of the Welfare and Institutions Code](#).

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 116.16.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3026 restates former Civil Code Section 4609 without substantive change. The reference to a custody or visitation rights proceeding “brought under this part,” meaning the former Family Law Act (former Part 5 (commencing with former Section 4000) of Division 4 of the Civil Code), has been omitted as unnecessary. See [Section 3021](#) (application of part). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (3)

West's Ann. Cal. Fam. Code § 3026, CA FAM § 3026

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3027

§ 3027. Allegations of child abuse or child sexual abuse

Effective: January 1, 2011

Currentness

(a) If allegations of child abuse, including child sexual abuse, are made during a child custody proceeding and the court has concerns regarding the child's safety, the court may take any reasonable, temporary steps as the court, in its discretion, deems appropriate under the circumstances to protect the child's safety until an investigation can be completed. Nothing in this section shall affect the applicability of [Section 16504](#) or [16506 of the Welfare and Institutions Code](#).

(b) If allegations of child abuse, including child sexual abuse, are made during a child custody proceeding, the court may request that the local child welfare services agency conduct an investigation of the allegations pursuant to [Section 328 of the Welfare and Institutions Code](#). Upon completion of the investigation, the agency shall report its findings to the court.

Credits

(Added by [Stats.2000, c. 926 \(S.B.1716\), § 3.](#) Amended by [Stats.2010, c. 352 \(A.B.939\), § 12.](#))

West's Ann. Cal. Fam. Code § 3027, CA FAM § 3027

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3027.1

§ 3027.1. False accusations of child abuse or neglect during child custody proceedings; knowledge; penalties

Effective: January 1, 2001

Currentness

- (a) If a court determines, based on the investigation described in [Section 3027](#) or other evidence presented to it, that an accusation of child abuse or neglect made during a child custody proceeding is false and the person making the accusation knew it to be false at the time the accusation was made, the court may impose reasonable money sanctions, not to exceed all costs incurred by the party accused as a direct result of defending the accusation, and reasonable attorney's fees incurred in recovering the sanctions, against the person making the accusation. For the purposes of this section, "person" includes a witness, a party, or a party's attorney.
- (b) On motion by any person requesting sanctions under this section, the court shall issue its order to show cause why the requested sanctions should not be imposed. The order to show cause shall be served on the person against whom the sanctions are sought and a hearing thereon shall be scheduled by the court to be conducted at least 15 days after the order is served.
- (c) The remedy provided by this section is in addition to any other remedy provided by law.

Credits

(Formerly § 3027, enacted by [Stats.1992, c. 162 \(A.B.2650\), § 10](#), operative Jan. 1, 1994. Amended by [Stats.1993, c. 219 \(A.B.1500\), § 116.17](#); [Stats.1994, c. 688 \(A.B.2845\), § 1](#). Renumbered § 3027.1 and amended by [Stats.2000, c. 926 \(S.B.1716\), § 2](#).)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

[Section 3027](#) [Renumbered as § 3027.1] continues former Civil Code Section 4611 without substantive change. The former reference to a "proceeding under this title," meaning the custody title of the former Family Law Act (former Title 4 (commencing with former Civil Code Section 4600) of Part 5 of Division 4 of the Civil Code), has been omitted as unnecessary. See [Section 3021](#) (application of part). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

Notes of Decisions (12)

West's Ann. Cal. Fam. Code § 3027.1, CA FAM § 3027.1

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3027.5

§ 3027.5. Sexual abuse of child; report or treatment; limitations on custody or visitation

Effective: January 1, 2000

Currentness

(a) No parent shall be placed on supervised visitation, or be denied custody of or visitation with his or her child, and no custody or visitation rights shall be limited, solely because the parent (1) lawfully reported suspected sexual abuse of the child, (2) otherwise acted lawfully, based on a reasonable belief, to determine if his or her child was the victim of sexual abuse, or (3) sought treatment for the child from a licensed mental health professional for suspected sexual abuse.

(b) The court may order supervised visitation or limit a parent's custody or visitation if the court finds substantial evidence that the parent, with the intent to interfere with the other parent's lawful contact with the child, made a report of child sexual abuse, during a child custody proceeding or at any other time, that he or she knew was false at the time it was made. Any limitation of custody or visitation, including an order for supervised visitation, pursuant to this subdivision, or any statute regarding the making of a false child abuse report, shall be imposed only after the court has determined that the limitation is necessary to protect the health, safety, and welfare of the child, and the court has considered the state's policy of assuring that children have frequent and continuing contact with both parents as declared in subdivision (b) of Section 3020.

Credits

(Added by Stats.1999, c. 985 (S.B.792), § 1.)

West's Ann. Cal. Fam. Code § 3027.5, CA FAM § 3027.5

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West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3028

§ 3028. Compensation; failure to assume caretaker responsibility; thwarting of other parent's visitation or custody rights; attorney's fees

Currentness

(a) The court may order financial compensation for periods when a parent fails to assume the caretaker responsibility or when a parent has been thwarted by the other parent when attempting to exercise custody or visitation rights contemplated by a custody or visitation order, including, but not limited to, an order for joint physical custody, or by a written or oral agreement between the parents.

(b) The compensation shall be limited to (1) the reasonable expenses incurred for or on behalf of a child, resulting from the other parent's failure to assume caretaker responsibility or (2) the reasonable expenses incurred by a parent for or on behalf of a child, resulting from the other parent's thwarting of the parent's efforts to exercise custody or visitation rights. The expenses may include the value of caretaker services but are not limited to the cost of services provided by a third party during the relevant period.

(c) The compensation may be requested by noticed motion or an order to show cause, which shall allege, under penalty of perjury, (1) a minimum of one hundred dollars (\$100) of expenses incurred or (2) at least three occurrences of failure to exercise custody or visitation rights or (3) at least three occurrences of the thwarting of efforts to exercise custody or visitation rights within the six months before filing of the motion or order.

(d) Attorney's fees shall be awarded to the prevailing party upon a showing of the nonprevailing party's ability to pay as required by [Section 270](#).

Credits

(Stats.1992, c. 162 (A.B.2650), § 10, operative Jan. 1, 1994. Amended by Stats.1993, c. 219 (A.B.1500), § 116.18.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3028 continues former Civil Code Section 4700(b) without substantive change. In subdivision (a), the former reference to an order "entered pursuant to this part," meaning the former Family Law Act (former Part 5 (commencing with former Section 4000) of Division 4 of the Civil Code), has been omitted as unnecessary. See [Section 3021](#) (application of part).

See also [Sections 3003](#) (“joint legal custody” defined), 3004 (“joint physical custody” defined), 3556 (custodial parent’s failure to implement noncustodial parent’s custody or visitation rights does not affect noncustodial parent’s duty of support). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

[Notes of Decisions \(1\)](#)

West's Ann. Cal. Fam. Code § 3028, CA FAM § 3028

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3029

§ 3029. Noncustodial parent's liability for support if custodial parent is receiving AFDC assistance; order

Currentness

An order granting custody to a parent who is receiving, or in the opinion of the court is likely to receive, assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with [Section 11200](#)) of Part 3 of Division 9 of the Welfare and Institutions Code) for the maintenance of the child shall include an order pursuant to Chapter 2 (commencing with [Section 4000](#)) of Part 2 of Division 9 of this code, directing the noncustodial parent to pay any amount necessary for the support of the child, to the extent of the noncustodial parent's ability to pay.

Credits

(Added by [Stats.1993, c. 219 \(A.B.1500\), § 116.19.](#))

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3029 continues former Civil Code Section 4600.2 without substantive change. A reference to sections in the Family Code has been substituted for the narrower references in former Civil Code Section 4600.2. This is not a substantive change. This is not a substantive change. [sic] See also [Sections 4200-4203](#) (payment of child support to court-designated county officer). [23 Cal.L.Rev.Comm. Reports 1 (1993)].

West's Ann. Cal. Fam. Code § 3029, CA FAM § 3029

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3030

§ 3030. Sex offenders; murderers; custody and visitation; child support; disclosure of information relating to custodial parent

Effective: January 1, 2007

Currentness

(a)(1) No person shall be granted physical or legal custody of, or unsupervised visitation with, a child if the person is required to be registered as a sex offender under [Section 290 of the Penal Code](#) where the victim was a minor, or if the person has been convicted under [Section 273a](#), [273d](#), or [647.6 of the Penal Code](#), unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record. The child may not be placed in a home in which that person resides, nor permitted to have unsupervised visitation with that person, unless the court states the reasons for its findings in writing or on the record.

(2) No person shall be granted physical or legal custody of, or unsupervised visitation with, a child if anyone residing in the person's household is required, as a result of a felony conviction in which the victim was a minor, to register as a sex offender under [Section 290 of the Penal Code](#), unless the court finds there is no significant risk to the child and states its reasons in writing or on the record. The child may not be placed in a home in which that person resides, nor permitted to have unsupervised visitation with that person, unless the court states the reasons for its findings in writing or on the record.

(3) The fact that a child is permitted unsupervised contact with a person who is required, as a result of a felony conviction in which the victim was a minor, to be registered as a sex offender under [Section 290 of the Penal Code](#), shall be *prima facie* evidence that the child is at significant risk. When making a determination regarding significant risk to the child, the *prima facie* evidence shall constitute a presumption affecting the burden of producing evidence. However, this presumption shall not apply if there are factors mitigating against its application, including whether the party seeking custody or visitation is also required, as the result of a felony conviction in which the victim was a minor, to register as a sex offender under [Section 290 of the Penal Code](#).

(b) No person shall be granted custody of, or visitation with, a child if the person has been convicted under [Section 261 of the Penal Code](#) and the child was conceived as a result of that violation.

(c) No person shall be granted custody of, or unsupervised visitation with, a child if the person has been convicted of murder in the first degree, as defined in [Section 189 of the Penal Code](#), and the victim of the murder was the other parent of the child who is the subject of the order, unless the court finds that there is no risk to the child's health, safety, and welfare, and states the reasons for its finding in writing or on the record. In making its finding, the court may consider, among other things, the following:

(1) The wishes of the child, if the child is of sufficient age and capacity to reason so as to form an intelligent preference.

(2) Credible evidence that the convicted parent was a victim of abuse, as defined in [Section 6203](#), committed by the deceased parent. That evidence may include, but is not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of domestic abuse.

(3) Testimony of an expert witness, qualified under [Section 1107 of the Evidence Code](#), that the convicted parent experiences intimate partner battering.

Unless and until a custody or visitation order is issued pursuant to this subdivision, no person shall permit or cause the child to visit or remain in the custody of the convicted parent without the consent of the child's custodian or legal guardian.

(d) The court may order child support that is to be paid by a person subject to subdivision (a), (b), or (c) to be paid through the local child support agency, as authorized by [Section 4573 of the Family Code](#) and Division 17 (commencing with [Section 17000](#)) of this code.

(e) The court shall not disclose, or cause to be disclosed, the custodial parent's place of residence, place of employment, or the child's school, unless the court finds that the disclosure would be in the best interest of the child.

Credits

(Added by Stats.1993, c. 219 (A.B.1500), § 116.20. Amended by Stats.1993-94, 1st Ex.Sess., c. 5 (S.B.25), § 1, eff. Nov. 30, 1994; Stats.1997, c. 594 (A.B.1222), § 1; Stats.1998, c. 131 (A.B.1645), § 1; Stats.1998, c. 485 (A.B.2803), § 64; Stats.1998, c. 704 (A.B.2745), § 1.5; Stats.1998, c. 705 (A.B.2386), § 1.5; Stats.2000, c. 808 (A.B.1358), § 26, eff. Sept. 28, 2000; Stats.2005, c. 215 (A.B.220), § 2; Stats.2005, c. 483 (S.B.594), § 2.5; Stats.2006, c. 207 (A.B.2893), § 1.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3030 continues former Civil Code Section 4610 without substantive change. See also [Sections 3100\(b\)](#) (visitation limited to situations where third party present in case involving domestic violence), 3101(b), 3103(b) (limitation on stepparent or grandparent visitation in case involving domestic violence). [23 Cal.L.Rev.Comm. Report 1 (1993)].

Notes of Decisions (2)

West's Ann. Cal. Fam. Code § 3030, CA FAM § 3030

Current with urgency legislation through Ch. 70 of 2013 Reg.Sess,

West's Annotated California Codes

Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3030.5

§ 3030.5. Modification or termination of order for physical or legal custody
or unsupervised visitation order; sex offenders required to be registered

Effective: January 1, 2006

Currentness

(a) Upon the motion of one or both parents, or the legal guardian or custodian, or upon the court's own motion, an order granting physical or legal custody of, or unsupervised visitation with, a child may be modified or terminated if either of the following circumstances has occurred since the order was entered, unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record:

(1) The person who has been granted physical or legal custody of, or unsupervised visitation with the child is required, as a result of a felony conviction in which the victim was a minor, to be registered as a sex offender under [Section 290 of the Penal Code](#).

(2) The person who has been granted physical or legal custody of, or unsupervised visitation with, the child resides with another person who is required, as a result of a felony conviction in which the victim was a minor, to be registered as a sex offender under [Section 290 of the Penal Code](#).

(b) The fact that a child is permitted unsupervised contact with a person who is required, as a result of a felony conviction in which the victim was a minor, to be registered as a sex offender under [Section 290 of the Penal Code](#), shall be prima facie evidence that the child is at significant risk. When making a determination regarding significant risk to the child, the prima facie evidence shall constitute a presumption affecting the burden of producing evidence. However, this presumption shall not apply if there are factors mitigating against its application, including whether the party seeking custody or visitation is also required, as the result of a felony conviction in which the victim was a minor, to register as a sex offender under [Section 290 of the Penal Code](#).

(c) The court shall not modify an existing custody or visitation order upon the ex parte petition of one party pursuant to this section without providing notice to the other party and an opportunity to be heard. This notice provision applies only when the motion for custody or visitation change is based solely on the fact that the child is allowed unsupervised contact with a person required, as a result of a felony conviction in which the victim was a minor, to register as a sex offender under [Section 290 of the Penal Code](#) and does not affect the court's ability to remove a child upon an ex parte motion when there is a showing of immediate harm to the child.

Credits

(Added by [Stats.2005, c. 483 \(S.B.594\), § 3.](#))

West's Ann. Cal. Fam. Code § 3030.5, CA FAM § 3030.5

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Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3031

§ 3031. Protective or restraining orders; findings; transfer of children; detail specific custody or visitation orders; required presence of third party

Currentness

(a) Where the court considers the issue of custody or visitation the court is encouraged to make a reasonable effort to ascertain whether or not any emergency protective order, protective order, or other restraining order is in effect that concerns the parties or the minor. The court is encouraged not to make a custody or visitation order that is inconsistent with the emergency protective order, protective order, or other restraining order, unless the court makes both of the following findings:

(1) The custody or visitation order cannot be made consistent with the emergency protective order, protective order, or other restraining order.

(2) The custody or visitation order is in the best interest of the minor.

(b) Whenever custody or visitation is granted to a parent in a case in which domestic violence is alleged and an emergency protective order, protective order, or other restraining order has been issued, the custody or visitation order shall specify the time, day, place, and manner of transfer of the child for custody or visitation to limit the child's exposure to potential domestic conflict or violence and to ensure the safety of all family members. Where the court finds a party is staying in a place designated as a shelter for victims of domestic violence or other confidential location, the court's order for time, day, place, and manner of transfer of the child for custody or visitation shall be designed to prevent disclosure of the location of the shelter or other confidential location.

(c) When making an order for custody or visitation in a case in which domestic violence is alleged and an emergency protective order, protective order, or other restraining order has been issued, the court shall consider whether the best interest of the child, based upon the circumstances of the case, requires that any custody or visitation arrangement shall be limited to situations in which a third person, specified by the court, is present, or whether custody or visitation shall be suspended or denied.

Credits

(Added by Stats.1993, c. 219 (A.B.1500), § 116.30. Amended by Stats.1994, c. 320 (A.B.356), § 1.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

Enactment [Revised Comment]

Section 3031 continues without substantive change former Civil Code Sections 4612 and 7009 and former Code of Civil Procedure Section 547.7. The former reference to “a proceeding concerning the custody of, or visitation with, a minor” has been omitted. This section applies to a determination of custody or visitation in a proceeding for dissolution, nullity, or legal separation, and in proceedings pursuant to the Domestic Violence Prevention Act and the Uniform Parentage Act. See [Section 3021](#) (application of part). See also [Section 3011](#) (factors in determining best interest of child). [23 Cal.L.Rev.Comm. Report 1 (1993)].

West's Ann. Cal. Fam. Code § 3031, CA FAM § 3031

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Family Code (Refs & Annos)

Division 8. Custody of Children (Refs & Annos)

Part 2. Right to Custody of Minor Child (Refs & Annos)

Chapter 1. General Provisions (Refs & Annos)

West's Ann.Cal.Fam.Code § 3032

§ 3032. Pilot program to provide interpreter in child custody or protective order cases; lack of English proficiency and financial ability of party; report to Legislature

Currentness

(a) The Judicial Council shall establish a state-funded one-year pilot project beginning July 1, 1999, in at least two counties, including Los Angeles County, pursuant to which, in any child custody proceeding, including mediation proceedings pursuant to [Section 3170](#), any action or proceeding under Division 10 (commencing with [Section 6200](#)), any action or proceeding under the Uniform Parentage Act (Part 3 (commencing with [Section 7600](#)) of Division 12), and any proceeding for dissolution or nullity of marriage or legal separation of the parties in which a protective order as been granted or is being sought pursuant to [Section 6221](#), the court shall, notwithstanding [Section 68092 of the Government Code](#), appoint an interpreter to interpret the proceedings at court expense, if both of the following conditions are met:

(1) One or both of the parties is unable to participate fully in the proceeding due to a lack of proficiency in the English language.

(2) The party who needs an interpreter appears in forma pauperis, pursuant to [Section 68511.3 of the Government Code](#), or the court otherwise determines that the parties are financially unable to pay the cost of an interpreter. In all other cases where an interpreter is required pursuant to this section, interpreter fees shall be paid as provided in [Section 68092 of the Government Code](#).

(3) This section shall not prohibit the court doing any of the following when an interpreter is not present:

(A) Issuing an order when the necessity for the order outweighs the necessity for an interpreter.

(B) Extending the duration of a previously issued temporary order if an interpreter is not readily available.

(C) Issuing a permanent order where a party who requires an interpreter fails to make appropriate arrangements for an interpreter after receiving proper notice of the hearing, including notice of the requirement to have an interpreter present, along with information about obtaining an interpreter.

(b) The Judicial Council shall submit its findings and recommendations with respect to the pilot project to the Legislature by January 31, 2001. Measurable objectives of the program may include increased utilization of the court by parties not fluent in English, increased efficiency in proceedings, increased compliance with orders, enhanced coordination between courts and culturally relevant services in the community, increased client satisfaction, and increased public satisfaction.

Credits

(Added by [Stats.1998, c. 981 \(A.B.1884\), § 2.](#))

West's Ann. Cal. Fam. Code § 3032, CA FAM § 3032

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